UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SR INTERNATIONAL BUSINESS INSURANCE CO., LTD.,

Plaintiff,

vs.

No. 01 CV 9291 (JSM)

WORLD TRADE CENTER PROPERTIES LLC; SILVERSTEIN PROPERTIES INC.; SILVERSTEIN WTC MANAGEMENT CO. LLC; WESTFIELD, INC.,; THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY; GMAC COMMERCIAL MORTGAGE CORPORATION; UBS WARBURG REAL ESTATE INVESTMENTS INC.; WESTFIELD WTC LLC; WESTFIELD CORPORATION, INC.; WESTFIELD AMERICA, INC.; 1 WORLD TRADE CENTER LLC; 2 WORLD TRADE CENTER LLC; 4 WORLD TRADE CENTER LLC; 5 WORLD TRADE CENTER LLC; and WELLS FARGO BANK MINNESOTA, N.A. AS TRUSTEE FOR THE REGISTERED HOLDERS OF GMAC COMMERCIAL MORTGAGE SECURITIES, INC., MORTGAGE-BACKED PASS-THROUGH CERTIFICATES, SERIES 2000-WTC,

Defendants.

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COPY

CONFIDENTIAL VIDEOTAPED
DEPOSITION OF DENNIS MALOPOLSKI
New York, New York
Monday, September 30, 2002

Reported by:
JOYCE G. ABELES
JOB NO. 140488

CONFIDENTIAL

September 30, 2002

1:30 p.m.

Confidential videotaped deposition of DENNIS MALOPOLSKI, held at the offices of Skadden Arps Slate Meagher & Flom, 4 Times Square, New York, New York, pursuant to notice, before Joyce G. Abeles, a Notary Public of the State of New York.

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ALSO PRESENT:
DEREK A. WHITE, PE, Hughes Associates
RUBEN MARTINEZ, Videographer

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

Malopolski-Confidential

THE VIDEOGRAPHER: This is tape number one of the videotaped deposition of Mr. Dennis Malopolski in the matter SR versus World Trade Center. This deposition is being held at 4 Times Square, Manhattan, New York.

My name is Ruben Martinez from the firm of Esquire Video Services. The court reporter is Ms. Joyce Abeles in association with Esquire Deposition Services.

Will the court reporter please swear in the witness.

D E N N I S M A L O P O L S K I, called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION

BY MS. GIFFIN:

Q. Good afternoon, Mr. Malopolski. I introduced myself to you earlier, but for the record my name is Christina Giffin. I'm with the law firm of Williams & Connolly and I represent Industrial Risk Insurers in this action. They're a counterclaim defendant.

Could you state your name for the record and spell your last name, please?

A. My name is Dennis Malopolski. That's M A L O P O L S K I.

Q. And Mr. Malopolski, have you been deposed before?

A. No.

Q. In any matter at all?

A. No.

Q. Let me just go over a few ground rules so that we can understand each other as well as possible.

We're here to ask you some questions today and I'll be asking you a series of questions and then some of the other counsel may have some questions for you as well. You understand you're under oath?

A. Yes.

Q. And that -- is there any reason you couldn't testify today? Is there anything that might impair your ability to understand my questions or to answer them fully?

A. No.

Q. If you don't understand a question at

any point, please let me know and I will try to communicate better with you. If you do answer a question, I'll assume you understand it, okay?

A. Yes.

Q. As you can see, a court reporter is transcribing your answers today and that means it's important for you to answer orally, rather than shaking your head or nodding your head at any point.

Also it's important for you and I to try not to talk over each other, so if you'll let me completely finish my question before answering, and I'll let you completely finish your answer before I ask another question, that will make sure the court reporter can get down what we say accurately, okay?

A. Yes.

Q. Did you prepare for your deposition here today, sir?

A. Yes.

Q. And how did you prepare?

A. I had a discussion with Tim Reynolds and Tim Stickelman.

Q. And was anyone else present for that

conversation?

A. No.

Q. Was it just one conversation?

A. That's correct.

Q. When did that occur?

A. Maybe 10 days ago.

Q. And how long did you meet with them?

A. Perhaps an hour, hour and a half, I believe.

Q. And where did that meeting take place?

A. In this building.

Q. Did you review documents in preparation for this deposition?

A. No.

Q. Mr. Malopolski, where is your office located currently?

A. Currently at 115 Broadway, New York City.

Q. And how long has it been located there?

A. Perhaps eight weeks.

Q. And where were you before that?

A. I was at Newark International

Airport.

Q. And how long was your office located there?

A. Ten months.

Q. And where was your office prior to that?

A. 2 World Trade Center, New York City.

Q. Can you tell me how you keep your files at your office at 115 Broadway?

A. In a file cabinet, file folders.

Q. How are they organized?

A. According to the way that I can find them.

Q. Can you tell me a little bit more about that?

A. I probably label them according to the major area that they're concerned with.

Q. Is that the way you've always kept your files?

A. Yes.

Q. When you moved your office from Newark International Airport to 115 Broadway, did you take all of your files from Newark International Airport to your new office?

A. They're still at Newark International Airport. I have not completely moved in on Broadway.

Q. Do you also keep files on your computer?

A. Yes, I do.

Q. Have you organized the files on your computer?

A. Most of the files on the computer would be as a Word document, mostly letters, spreadsheets.

Q. Do you keep file folders for your files on your computer separated by subject matter?

A. Yes.

Q. Do you have an email system?

A. I do.

Q. Do you maintain files in your email systems?

A. Yes.

Q. And are those also organized by subject matter?

A. Yes, or they could be organized by the sender.

Q. Did you search your files for documents related to this case?

A. No.

Q. At any point?

A. I don't have any files. All my files were lost on September 11th last year.

Q. Am I understanding you correctly that you have not sent, received or kept any documents related to the World Trade Center since September 11th, 2001?

A. That's correct.

Q. Sir, can you briefly tell us about your educational history after high school?

A. I attended college. I have a BA degree in biology.

Q. Where did you attend college?

A. Glassboro State College in New Jersey.

Q. Did you have any other education after you completed your BA?

A. I have a journeyman's certificate, U.S. Department of Labor, as a chemical process operator.

I'm certified in the State of New

Jersey as a gold seal engineer, licensed to operate a steam plant of any capacity. And I have a blue seal license to operate refrigeration plants.

Q. When did you receive your BA?

A. When?

Q. Yes.

A. 1971.

Q. And the journeyman's certificate from the Department of Labor as a chemical process operator, have I said that correctly?

A. That's correct.

Q. When did you receive that?

A. Best I can recall, I think it should be about 1979.

Q. And --

A. I could be off by a few years.

Q. Were there requirements for you to get that certificate?

A. I had to serve an apprenticeship of three years and attend classes and take written tests.

Q. What kind of classes did you attend?

A. Informational classes in the trade.

Q. And can you describe for me broadly what the subject matter of the trade would be?

A. Maintenance and operation of large mechanical equipment.

Q. What kind of mechanical equipment?

A. Pumps, motors, compressors, blowers, fractionation towers, piping systems, controls, valves.

Q. And you served in an apprenticeship for three years, is that correct?

A. That's correct.

Q. Did you apprentice to an individual or to an organization?

A. The Chevron USA, a petroleum refining company.

Q. And what were your responsibilities during that apprenticeship?

A. I was a chemical process operator.

Q. Can you describe for me a little bit what that means?

A. That's a person who would be involved in the daily operation and maintenance of a petroleum refinery.

Q. So on a typical day, what would you

expect to do in that apprenticeship?

MR. REYNOLDS: Object to the form. You can answer if you can generally describe what you did.

A. It would involve coming in and working an eight-hour shift in a refinery.

Q. What did you do in the refinery?

A. Operated it.

Q. Can you describe a little bit more for me, please?

A. We could probably talk for hours about it.

Q. I don't want to talk for hours about it. If you could give me a sense of what -- were you the person actually physically operating machinery, or were you the person who was overseeing the operation of machinery? If you could give me a more general sense than operating, but less general than several hours.

A. Personally hands-on. We would go out and turn valves and monitor the controls from the control room, and we would generally work orders, identify problems that needed repair.

Q. Problems with the systems?

A. Yes.

Q. That's what you did, correct?

A. Yes.

Q. Was there anything else besides attending the types of classes you've described and fulfilling this apprenticeship that you were expected to do to get your journeyman's certificate?

A. Pass written tests.

Q. Were those tests a part of the classes you mentioned, or were they independent?

A. There were tests at all the classes. And there were other tests outside the classes. And there were also situation exams where you'd be given a scenario and you'd have to describe what actions you would take to rectify a situation in the scenario.

Q. Anything else you did to complete your requirements for the journeyman's certificate?

A. That's about it, I believe.

Q. You said you were certified in the State of New Jersey as a gold seal engineer. When were you so certified?

A. As close as I can recall, I would believe that was 1983.

Q. And were there requirements for you being certified as a gold seal engineer?

A. There's a process of progressive licensing and experience working with the class and magnitude of equipment that you need to move to the next level. It's a four-step process: There's a black seal license, a blue seal license, a red seal license and a gold seal license. And they must be earned in like consecutive fashion, with increasing capacity of equipment and increasing responsibility. And there are written tests required to be passed.

Q. You said that there are -- that it's a four-step process. And you move up through these levels you mentioned, correct?

A. Yes.

Q. Which is the first level and which is the final level?

A. Black is the first and gold is the final.

Q. And this is a process administered by the State of New Jersey, is that correct?

A. Correct.

(Discussion off the record.)

Q. And what is it? Can you tell me a little bit more about what is required for you to receive this licensing?

A. It's a function of the office of boiler and pressure vessel compliance. It's to certify that people who are operating high pressure equipment are certified, and it requires training and schooling and experience.

Q. And what kind of training, schooling and experience did you have in order to take your gold seal?

A. I was trained at the Chevron refinery as a part of the apprenticeship. And I attended night school to take courses.

Q. Where did you attend night school?

A. Middlesex County Vocational School.

Q. And approximately when were you attending night school there?

A. Prior to receiving the gold seal license, for about -- I guess the course might have been a six-month course immediately prior to taking the test for the gold seal license.

So I said that was 1983, so that would be six months prior to receiving the license because the exam is quite rigorous and very technical and requires a lot of computation, a lot of formulas to be memorized, a lot of knowledge about expansion factors and maximum allowable working pressures, all things to do with large steam equipment.

Q. In qualifying to take your gold, to get a gold seal license, were you required to first receive a black, then blue, then red license?

A. That's correct.

Q. Which ultimately became a gold license?

A. Well, you had to test for each level. You had to perform in that capacity for a certain amount of time. The quickest that you could move through the entire process, I believe, would be about three and a half years.

Q. And approximately how long did it take you to move through the process?

A. Three and a half years.

Q. You mentioned you also have a blue

seal license to operate refrigeration plants, correct?

A. Correct.

Q. That's different from your gold seal license?

A. It's a part. Both seals are on the same certificate.

Q. And do you also have the black and red seals on that same certificate?

A. No. The structure is different. There's a blue, a red and a gold.

Q. For refrigeration?

A. Correct.

Q. When did you receive your blue seal?

A. 1983, 1984. There's a requirement that you must work with toxic or flammable refrigerant before you can sit for the test. And that was the first time that I had worked with flammable or toxic refrigerants. I had an ammonia plant, ammonia refrigeration plant.

Q. You worked at the ammonia refrigeration plant?

A. In the refinery I worked at, there was an ammonia refrigeration plant.

Q. And that's again at Chevron?

A. No, that was at Hess.

Q. Were there any other requirements besides that you must work with toxic or flammable materials?

A. Refrigerants.

Q. Yes, thank you. Before you could get your blue seal license?

A. There was the same sort of time constraint and the same sort of written testing.

Q. Did you also have to attend classes?

A. No, I studied for that myself.

Q. Have you had any other education besides what you've just described to me? And just so we're on the same page, you told me about your BA in biology, and then your journeyman's certificate and your gold seal license and blue seal license.

Is there any other type of education or training you've had?

A. Well, I have continuously attended seminars and training sessions in my field.

Q. Approximately how often do you attend seminars or training sessions in your field?

A. It's sporadic. It depends upon when the training is offered and when it fits with my schedule.

Q. Are there continuing education requirements for your field?

A. No, not requirements, but of course anyone who would like to stay, you know, well informed, anyone who is responsible and wants to, you know, excel in the field, of course, will always seek out more education.

Q. And that's why you continue to seek out education, correct?

A. Yes.

Q. Can you tell us broadly what subject matters you've sought out additional training in?

A. Always in large equipment, refrigeration.

Q. Anything else?

A. Safety and maintenance procedures. Computer controls. All things that would be pertinent to my job description.

Q. And the seminar and training sessions, were those sessions conducted by the

Port Authority or other entities?

A. Both.

Q. Can you tell me approximately how many seminars and training sessions you've attended since January of 2000?

A. There are none that come to mind.

Q. Can you tell me the last time you attended a seminar or training session?

A. No.

Q. Was it within the last five years?

A. I would think so, yes.

Q. But was it within the last two years?

A. No.

Q. Have you received any other education or specialized training besides what you've already described to me?

A. No.

Q. Can you please describe your work history for me, starting again, starting after college?

A. How detailed do you want to be?

Q. Well, let's start broadly and if I need more detail, I'll ask you further questions.

A. Okay. Broadly, from the time that I graduated from college, I taught school in Camden for one year.

Q. And that was in 1979?

A. 1971.

Q. What level of school did you teach?

A. 7th and 8th grade biology.

Q. For one year?

A. Yes.

Q. And then what did you do?

A. I worked for the Hess refinery for several years.

Q. And that was from 1972 to approximately when?

A. '74, '75, something like that.

Q. And what did you do for Hess?

A. I was, I worked in the laboratory there.

Q. And what were your responsibilities?

A. Sampling and testing petroleum products.

Q. And in '74 or '75, you changed jobs?

A. Yes, I did. The Hess refinery closed down and I worked as a marine surveyor.

Q. And that was from 1974 or 1975 until approximately when?

A. Probably a year and a half, almost two years.

Q. And who were you working for?

A. Company called Laboratory Services, in Carteret, New Jersey.

Q. And what were your responsibilities?

A. Sampling and testing petroleum products.

Q. And you left that job approximately when?

A. Whatever that time frame was, two years.

Q. It looks like about 1976 or 1977?

A. Sounds good.

Q. And where did you go then?

A. Then I was at the Chevron refinery in Perth Amboy.

Q. And that was part of your apprenticeship?

A. That's correct.

Q. And what was your title?

A. Refinery operator.

Q. And what were your responsibilities?

A. To operate a petroleum refinery as we had previously discussed.

Q. And why did you leave your position as a marine surveyor?

A. The opportunity at Chevron; a lot more pay, better job.

Q. And you were at Chevron for approximately three years?

A. Six years.

Q. Approximately 1983?

A. Right, 1982, 1983, somewhere in there.

Q. And where did you go then?

A. To the Hess refinery in Fort Redding, New Jersey.

Q. Is that the same location that you were working for previously?

A. Yes. It reopened. It was a rebuild and I went there for the construction phase, construction and startup. And I was there for a short time, I guess about three years, when the opportunity came up with the Port Authority and I changed jobs.

Q. So until about 1986 or 1987?

A. Right.

Q. And why did you decide to go to the Port Authority?

A. A better opportunity, more security. I'd been put out of work twice in the refining industry by layoffs and plant shutdowns.

Q. I understand the Hess refinery shut down. Was there another --

A. Yes, the Chevron refinery also shut down.

Q. What was your position when you went to the Port Authority in approximately 1986 or 1987?

A. Watch engineer.

Q. What were your responsibilities as a watch engineer?

A. Operation and maintenance of HVAC equipment at Newark Airport.

Q. Is that a supervisory position?

A. Not at that time.

Q. To whom did you report?

A. The supervisor in charge of my area.

Q. And do you remember who that was?

A. I think George Nemec at that time.

Q. Can you spell that last name, please?

A. N E M E C.

Q. How long were you a watch engineer at Newark Airport?

A. Approximately four years.

Q. So that brings us to about 1990?

A. Yes.

Q. In connection with your responsibilities as a watch engineer for the HVAC equipment, did you have responsibility for any other HVAC equipment outside of Newark Airport?

A. No.

Q. And just for the record, HVAC means heating, ventilation and air conditioning, correct?

A. Correct.

(Discussion off the record.)

Q. So to what position did you move in 1990?

A. Maintenance group supervisor.

Q. Was that still at Newark Airport?

A. That's correct.

Q. What were your responsibilities there?

A. Supervision of the people who were watch engineers at that time.

Q. How many people were under your supervision?

A. It varied from time to time, but approximately 10.

Q. And at that point in time, were your responsibilities still limited solely to Newark Airport?

A. That's correct.

Q. How long did you do that job?

A. For three years.

Q. And am I correct in assuming that the change in your position from watch engineer to maintenance supervisor was a promotion?

A. That's correct.

Q. And what did you -- what position did you move to after three years?

A. After the watch, after the maintenance group supervisor?

Q. Correct.

A. I came to the World Trade Center

following the 1993 bombing as a general maintenance supervisor.

Q. And why did you make that change?

A. We had four people killed in that department and I replaced one of the gentleman who died.

Q. That reminds me that I forgot to say when I was talking at the beginning of our deposition, if at any point during the day or during the afternoon you want to take a break, please let me know, or let your counsel know. The only caveat to that is that if there's a question pending, we need to answer the question and then we can go ahead and take a break.

I mention this because we may be discussing the 1993 bombing as well as what happened on September 11th, and I understand that those may be difficult topics and we want to make having to do this as easy for you as possible, so please let me know if you do want to take a break.

And let me also take this opportunity to express condolences on behalf of everyone on our side of the table for the Port Authority's

loss, in both in 1993 and 2001.

A. Thank you.

Q. What were your responsibilities as general maintenance supervisor in 1993?

A. My primary focus was the rebuilding of the refrigeration plant.

Q. How many people were you supervising in connection with the rebuilding of the refrigeration plant, if any?

A. My duties were to direct the contractor, primarily York International, and they had a staff which did the work, actually did the work. And that may have been -- there was an expanding and contracting group. At times it could have been as many as 30 people.

Q. Was there anyone else within the Port Authority with whom you were working on rebuilding the refrigeration plant in 1993?

A. Yes.

Q. Who was that?

A. My entire department of plant and structures, the supervising engineer, the manager of plant and structures, the chief maintenance supervisor who I worked for, and

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various people from engineering.

Q. You said that your duties were to direct the contractor, Newark International, which as I understand your testimony was the group that actually did the work.

A. Not Newark International, York International.

Q. York International, I'm sorry, I misspoke. Can you tell me about, you also said that a great many people from the department of plant and structures were involved in this rebuilding process, correct?

A. Yes.

Q. Can you tell me about the interaction between York International and Port Authority as pertains to the rebuilding of the refrigeration plant? I'm trying to determine how responsibility was assigned between York International and Port Authority in place as to that --

MR. REYNOLDS: Object to the form of the question. You can answer. You can answer.

A. York was the manufacturer of the

equipment and they, of course, had the expertise and the access to parts, drawings and procedures. So they were contracted to rebuild the equipment that was damaged, and of course we had to track the costs and drive the schedule. And any modifications that we wanted, any improvements that we'd like incorporated at that time, we would direct them to do.

Q. Did you have any other responsibilities with the Port Authority in 1993?

A. Yes. At the same time that we were rebuilding the refrigeration plants, we were also operating and maintaining the buildings. And we had a contract staff outside the York International group which were tasked to operate and maintain the facility from a mechanical standpoint.

Q. And by facility, you mean the World Trade Center complex?

A. That's correct.

MR. BLATNIK: Object to the form.

Q. Did you have any other responsibilities with the Port in 1993?

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A. Other than?

Q. Other than those which you've already described?

A. I don't understand the question.

Q. Well, you've told me that part of your responsibility was rebuilding the refrigeration plant, and that you were also operating and maintaining the buildings, and that you had a contract staff which were tasked to operate and maintain the facility from a mechanical standpoint.

I'm just trying to determine whether there was anything else you were responsible for in 1993?

MR. STICKELMAN: Objection, mischaracterizes the prior testimony.

MR. REYNOLDS: You can go ahead.

A. I still don't understand what the thrust is. You basically stated my duties, but you know, we could get very detailed into different aspects of my duties. But in a broad brush, I would say that's it.

Q. That's fine. I was just trying to determine if I got a broad brush understanding

of what your responsibilities were.

How long were you a general maintenance supervisor for the World Trade Center?

A. I think about three years.

Q. Until about 1996?

A. Correct.

Q. And what position did you move to in 1996?

A. Chief maintenance supervisor.

Q. Is that a promotion?

A. Yes.

Q. And were you still at the World Trade Center?

A. Yes.

Q. And how did your responsibilities change when you got that promotion, if at all?

A. I was responsible then for all the mechanical equipment in the World Trade Center complex, operations and maintenance.

Q. Prior to receiving this promotion, you were not responsible for all the mechanical equipment?

A. Just pieces of it. Just different

concentrations.

Q. Which pieces?

A. The refrigeration plant, the steam plant, and the river water pump station and the computer cooling system.

Q. Anything else?

A. That was as a general maintenance supervisor, those were my areas of concentration.

Q. And then in 1996, as chief maintenance supervisor, your area extended to include all mechanical equipment?

A. Correct.

MR. REYNOLDS: Object to the form.

Q. What were the -- what did that bring into your area of responsibility that was not within your area of responsibility prior to that promotion?

MR. REYNOLDS: Object to the form. You can answer.

THE WITNESS: I don't understand.

MR. REYNOLDS: If you don't understand, ask her to --

THE WITNESS: I don't understand what

you said.

MR. REYNOLDS: Oh, it's just legal -- to protect the record for trial. You can still answer even if I object.

A. That would also take into account the HVAC, domestic water, sanitary systems, fire protection systems. That's about it.

Q. Can you tell me -- you told me that prior to 1996, part of your area of responsibility was with the river water pump, correct?

A. Correct.

Q. Is that a different system than the domestic water?

A. Yes.

Q. Can you describe for me very briefly what the difference between those two systems is?

A. In order to reject the heat of the building, the refrigeration machinery needs to be cooled, and that cooling is done with water from the Hudson River. And so there's a pump station in Battery Park City which takes suction on the Hudson River and pumps the water through

the building and the refrigeration equipment, and then back to the river.

Q. And by building, you mean the World Trade Center complex, correct?

MR. BLATNIK: Object to the form.

MR. REYNOLDS: Object to the form.

Q. So in 1996, it became your responsibility to oversee all of the systems that you've just described to me, is that correct?

A. That's correct.

Q. Who did you report to in that capacity?

A. The supervising engineer.

Q. Who was that?

A. It changed several times.

Q. Let's start with in 1996?

A. It was Ted Stam.

Q. And after Mr. Stam, do you remember who it was?

A. Lee Zucchi.

Q. Can you spell that name?

A. Z U C C H I.

Q. And after Mr. Zucchi?

A. Phil Taylor.

Q. And --

A. And then that was it.

Q. Do you still report to Mr. Taylor?

A. No.

Q. To whom do you report?

A. Now I report to a gentleman named Carl Passeri.

Q. Can you tell me who you reported to in your capacity as maintenance group -- sorry, as general maintenance supervisor?

A. Jeff Jasper.

Q. And what was Mr. Jasper's position?

A. Chief maintenance supervisor.

Q. So you moved into Mr. Jasper's position in 1996?

A. That's correct.

Q. And did Mr. Jasper move on to a different position within the Port Authority?

A. He retired.

Q. How long were you a chief maintenance supervisor?

A. I still am, although my duties and my work location have changed.

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Q. Can you describe for me how your duties have changed since 1996?

A. At this point, I am involved in the --

Q. Let me change the question slightly. It was a poorly phrased question.

Can you describe for me how, if at all, your job duties changed between 1996, as you've already described them, and mid summer of 2001?

A. We went through a process whereby we sold the World Trade Center -- we put it up for net lease, rather. And we changed the way we did business in the interim prior to that. And we changed the way we staffed the facility.

Q. I'd like to limit your answer for the moment to the time prior to the Port Authority's decision to lease the World Trade Center and determine whether or not your job responsibilities changed during that period of time?

MR. REYNOLDS: That's exactly what he just said. Prior to the net lease.

A. For about two years prior to the

lease, we changed the way we did business. The old model of the chief maintenance supervisor of plant and structures, with a staff that did mechanical operations and maintenance, was reorganized several times.

Q. Am I understanding you correctly that that process started in about 1999?

A. Approximately, I guess.

Q. So between 1996 and 1999, did your job responsibilities change?

A. No. They were pretty static. I mean the model of the way we did business from the time the Trade Center opened up until about 1999 remained pretty much the same.

Q. I'd like to come back a little later in the afternoon and talk about that process by which your job responsibilities, if I understand what you're saying, changed.

I'd like to focus now on what your job responsibilities are today. Can you tell me what your responsibilities are?

A. Today, I'm involved in the site management group for priority capital projects. And we manage the World Trade Center site.

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Q. Are you still an employee of the Port Authority of New York and New Jersey?

A. Yes, I am.

Q. And to whom do you report today?

A. Carl Passeri.

MS. GIFFIN: I'd like to introduce as the first exhibit a document Bates stamped PORT/SRI 151727 through 151730.

(Malopolski Exhibit 1, document bearing Bates Nos. PORT/SRI 151727 through 151730, marked for identification, as of this date.)

Q. Let me know what you've had a chance to review that, please.

A. Okay.

Q. Sir, have you seen this document before?

A. No.

Q. Have you seen any document like it before?

MR. REYNOLDS: Object to the form. You can answer.

A. It looks a little bit like an organization chart. I've seen a lot of those.

Q. Can you recognize the headings on this document?

A. No, except, you know, World Trade Center Property Management, Construction Tenant Project Management, Vertical Transportation Operations. Those are terms that have been used at the World Trade Center for many years. Security and Life Safety.

Q. If I could direct your attention to the page numbered 151729, under the heading "Static Group - Facilities/Central Plant (Unit 801) 801A6," your name is listed with several other names, do you see that?

A. Yes, I do.

Q. Do you understand what that heading is meant to refer to?

MR. REYNOLDS: Don't speculate.

A. No.

Q. Are you part of any group with the name static group?

A. I have never heard myself referred to as part of any static group.

Q. Do you have any understanding of what this list of names is meant to refer to?

A. Perhaps if I study it, I could make some inferences by seeing the people I know that are in the group, where I fit in with them.

Q. If you could take a minute to do that, please.

A. These are the people that were in my office up until September 11th, 2001.

Q. When you say your office, are you referring to a division or group within the Port Authority?

A. Yes, all these people sat in the same spot.

Q. What I'm trying to determine is, were they within the same division or group of the Port Authority?

A. Yes, the World Trade Department.

Q. Am I correct that this is not a complete list of individuals in the World Trade Department?

MR. REYNOLDS: Object to the form.

A. That's correct, it's not a complete list. You're talking about the one that we're just looking at right here, static group facilities, central plant?

Q. That's correct.

A. These are people who were physically sitting in the same space as I was at that time.

Q. Did these individuals have any overlapping areas of responsibility?

A. Yes.

Q. And what was that, please?

A. That would be the operation and maintenance of the mechanical, electrical and structural systems of the World Trade Center.

Q. Am I understanding you correctly that everyone on this list had some responsibility for the maintenance of the mechanical, electrical and structural systems at the World Trade Center?

MR. REYNOLDS: At what point in time?

Q. Well, good point. Let me step back. You identified this list as people who were physically sitting in the same space at the time that you were in the World Trade Center, correct?

MR. REYNOLDS: Object to mischaracterizing of his testimony. You can answer the question.

A. These were the people that were sitting in the same space, just prior to September 11th. In fact, on the day of September 11th, these people were in the same space.

Q. And at that point in time, each of the individuals on this list had responsibility for the operation and maintenance of the mechanical, electrical and structural systems of the World Trade Center?

A. No.

Q. Sorry. I must have misunderstood what you were saying.

A. On September 11th, these people were not involved. Prior to July 24th, these people were involved, but following July 24th, they were not. July 24th, 2002, there was a clear-cut break as to who was involved in the operation and maintenance of the World Trade Center.

Q. And that's because operation and maintenance was transferred to Silverstein Properties?

A. Correct.

Q. Do you know who Leonard, I'm sure I'll mispronounce it, Ardizzone is?

A. Yes, I do.

Q. What was his position with the Port Authority in July of 2001?

A. He was the chief maintenance supervisor in charge of structural maintenance at the World Trade Center.

MR. REYNOLDS: I'll object to the form of that question, just the uncertainty as to when in July we're talking about.

A. That would be prior to July 24th.

Q. Thank you. And Herman Ret, are you familiar with that individual?

A. Yes, I am.

Q. What was his position with the Port Authority prior to July 24th, 2001?

A. Prior to July 24th, he was the chief maintenance supervisor, electrical, at the World Trade Center.

Q. And Raymond Simonetti?

A. Raymond Simonetti was a general maintenance supervisor or maybe a maintenance unit supervisor.

Q. Can you tell --

A. I'm not sure. He did not work for me.

Q. Did you work for him?

A. No.

Q. Did you work for any of those three individuals?

A. No.

Q. Did any of the --

A. The first two were my peers.

Q. Can you tell, referring to the time period prior to July 24th, 2001, is this list organized in terms of hierarchy? That is, I'm trying to determine whether or not the people on this list were generally listed as supervisory down to less supervisory positions, or not?

MR. REYNOLDS: Object to the form. You can answer.

A. They're mixed up. They're not in a hierarchy as you've described.

Q. Is there any order that you can discern in the manner in which these names are listed?

A. No.

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MS. GIFFIN: Let's mark as the next exhibit a document Bates stamped PORT/SRI 166945 through 166955.

THE WITNESS: Can we take a short break at this time?

MS. GIFFIN: Sure.

THE VIDEOGRAPHER: The time is 2:33. We're going off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is 2:43. We're back on the record.

MS. GIFFIN: Let me correct what I said just prior to going off the record. I'd like to introduce two exhibits at this time. The first is Bates stamped 166945 to 946.

(Malopolski Exhibit 2, document bearing Bates Nos. PORT/SRI 166945 and 946, marked for identification, as of this date.)

MS. GIFFIN: And Exhibit 3 will be 166954 to 955.

(Malopolski Exhibit 3, document bearing Bates Nos. PORT/SRI 166954 and 955, marked for identification, as of this date.)

BY MS. GIFFIN:

Q. Let me know when you've had a chance to review that?

A. Yes.

Q. Focusing your attention on Exhibit 2, have you seen that document before, sir?

A. No.

Q. Have you seen any document like this before?

A. No.

Q. Are you familiar with the heading on this document which reads, "Actual 88/Fire Chapter"?

A. No, I'm unfamiliar with that.

Q. Do you see your name on this list, sir?

A. I do.

Q. Do you have any understanding of why your name might be on the list with the heading I just read?

MR. REYNOLDS: Don't speculate.

A. No.

Q. Do you have responsibilities with regard to the possibility of fire -- sorry,

strike that.

Prior to July 24th, 2001, did you have responsibility with regard to the possibility that a fire might occur at the World Trade Center?

MR. REYNOLDS: Object to the form. You can answer.

A. What point in time prior to July 24th?

Q. Well, at any time prior to July 24th. And at this point, I'm just asking you a yes or no question.

A. Yes.

Q. At what point in time did you have that kind of responsibility?

A. Perhaps two years before July 24th.

Q. For what period of time did you have that responsibility, or is that what you meant to tell me, that it was the entire two years prior to July 24th, 2001?

A. No, no. The time prior to those two years, the two years prior to July 24th, I did not have --

MR. REYNOLDS: The 24 months leading up to July 24th?

A. The 24 months leading up to July 24th, we reorganized a lot. My job changed several times, and my responsibilities were not as clear during that time as they were prior to that time.

Q. Prior to that time, what responsibilities did you have with respect to the possibility that a fire might occur at the World Trade Center?

MR. REYNOLDS: Object to the form. You can answer.

A. In the event of a fire, the responsibility for our group was to report to the fire command center and await instructions from the incident commander, who would be FDNY, the highest ranking guy there.

Q. When you say our group, to whom are you referring?

A. At that time, it would have been the mechanical group.

Q. Did you have any responsibilities prior to July 24th, 2001 to make the building safer in the event of a fire?

MR. REYNOLDS: Object to the form of

the question.

A. No.

Q. At no point?

A. No.

Q. If I could turn your attention to Exhibit 3. Have you seen this document before?

A. No.

Q. Any document like it before?

A. It's a list of names, World Trade people.

Q. Do you have any understanding of what the title of this document, which is "Power Failure," is meant to refer to?

A. I would assume that it's a power failure at the World Trade Center. That seems to be pretty obvious, but what is "Power Failure (Cond)"?

MR. REYNOLDS: You answered the question. You can't ask any.

Q. Doesn't really matter, unfortunately, what I might say.

A. No, it's confusing because I've never seen this document and there are terms here that I don't understand.

Q. Do you recognize the names on this list?

A. Yes.

Q. All of them?

A. There are three or four that I don't recognize.

Q. Are these individuals who worked in the World Trade Department?

MR. STICKELMAN: At what time?

MS. GIFFIN: Prior to July 24th, 2001.

A. Prior to July 24th? Most of them, yes. Others, no.

Q. Are you able to determine what this list of individuals might have in common?

MR. REYNOLDS: In a metaphysical sense?

Q. Do you understand the question, sir?

A. Like Tim said, you know, there are a lot of ways that we can classify them and say they have something in common, but it looks like mostly operations and maintenance staff for the complex, with some other people from different departments in the Port Authority. Also contractors that work for the Port Authority.

Q. In connection with your job responsibilities, is it fair to say you became very familiar with the World Trade Center mechanical system?

MR. REYNOLDS: Object to the form. You can answer.

A. Yes.

Q. Did you also become familiar with the operations of the complex?

A. Yes.

Q. And the way it was managed day to day?

A. Yes.

MS. GIFFIN: I'd like to introduce the next exhibit, a document Bates stamped PORT/SRI 150454 to 455.

(Malopolski Exhibit 4, document bearing Bates Nos. PORT/SRI 159454 and 455, marked for identification, as of this date.)

Q. If you'd let me know when you've had a chance to review that document, please?

A. Okay.

Q. Have you seen this document before, sir?

A. No. I may have seen the top part since it was addressed to me. Looks like an Outlook email message.

Q. Do you not have any recollection of having received this document?

A. No.

Q. Any part of this document?

A. No.

Q. I'd like to refer you to the lower part of this document underneath the heading "Original Message," which also appears to be an email?

A. Correct.

Q. The subject line of that reads, "Daily Operation Summary, May 7th, 2001, 0700 hrs to 1900 hrs." Are you familiar with daily operations summaries that may be performed at the World Trade Center?

MR. REYNOLDS: Object to the form of the question. That were performed?

MS. GIFFIN: Yes, thank you.

Q. Are you familiar with such daily operation summaries?

A. I know that they existed, but I would

not normally see this. This is an operations document.

Q. Can you tell me what you do know about daily operation summary?

A. There would be people on duty 24 hours a day and they would keep a log of incidents.

Q. Incidents that occurred at the complex?

A. Correct.

MR. REYNOLDS: Object to the form.

Q. And you said you would not normally see this. This is an operations document. You testified earlier that you became familiar with the operations at the complex in the course of your job responsibilities, correct?

A. Correct.

Q. Who -- is there a reason why you wouldn't familiarize yourself with daily operations summaries in connection with your job responsibilities?

MR. REYNOLDS: Object to the form. Object to the fact that it assumes, that the question assumes that he should be

familiarizing himself with the operations summaries. You can answer the question.

A. The way the building was operated, we had basically a plant and structures group, which would take care of electrical, mechanical, structural items.

Then we had an operations group which would take care of the daily operations, as you read down code 2, elevator secured, coordinated PA porters. That's business that I would not be involved in. That's stuff of a cleaning and people movement nature which would be outside my scope.

My concentration, as you can see, where they asked me to look at entry 1312, refers to a mechanical vibration out at the river water pump station, so that's something that I would need to know or need to look into, and the rest of this stuff is not pertinent to my area of endeavor.

So I would never see this on a normal basis, unless it was flagged that it was something that I needed to see.

Q. Do you know who would be responsible

for this area of endeavor, as you said?

MR. REYNOLDS: At what point in time?

Q. Prior to July 24th, 2001?

A. I suppose we could look at the list of people who it's sent to and assume that those would be the people who would be interested in it.

Q. Do you have any independent knowledge of who was responsible for the daily operation summary?

A. No.

Q. Do you have an understanding of the phrase base building systems as related to the World Trade Center?

A. Yes.

Q. Can you tell me what you understand that term to mean?

A. The equipment that was installed permanently anchored to the building.

Q. For example?

A. Refrigeration plant, HVAC equipment, pumps, piping, all the infrastructure, if you will.

Q. Electrical system?

A. Yes.

Q. Water supply?

A. Yes.

Q. All considered base building systems for the World Trade Center complex, correct?

MR. REYNOLDS: Objection.

A. Correct.

MR. REYNOLDS: Object to the form. Object to the characterization.

A. It's part of the stuff that, you know, when a place is built, the things that were included to start off with. Any kind of tenant modifications would not be base building, so we're talking raw space, major infrastructure items.

MS. GIFFIN: I'd like to introduce -- actually, let me step back.

Q. I'd like to return to the topic we were discussing earlier of the approximately two years leading up to the lease at the World Trade Center. And I believe you testified that your job responsibilities changed, is that correct?

A. A lot of job responsibilities in the department changed, that's correct.

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Q. At what point -- strike that.

Do you know when the Port Authority first decided to lease the World Trade Center?

A. There was talk of leasing the World Trade Center back in the 1970's when it was first opened, and it was a topic that always came up, but it really seemed to gather momentum in about 1995. And from that point on, as we can see looking back, it, you know, it gathered momentum and a half.

Q. As I understand what you told me earlier this afternoon, at some point the decision to lease the World Trade Center started to affect your job responsibilities, is that correct?

MR. REYNOLDS: Object to the form. Object to the characterization of the testimony. You can answer.

A. It affected the entire department.

Q. Including you?

A. Including me. I was part of the department, yes. It wasn't like it was focused on me.

Q. I understand. But at what point did

it start to affect your personal job responsibilities?

MR. REYNOLDS: Object to the form.

A. It's hard to say. As I had testified, about two years prior to the actual lease, things started to change. And we reorganized a lot.

Q. You reorganized several times?

A. Yes.

Q. If you could describe for me the reorganizations that took place from the time period approximately 24 months before the lease up to July 24th, 2001?

A. As I understand it, as it was explained to me, we were going to change the way we did business to be more like other real estate in New York City. So that the way we used to conduct the business at the World Trade Center was changed to be more like any other building that you might run into here.

And as explained to me, the rationale was that an operator that came into the building would understand that better than our structure.

Q. Do you know why that change occurred?

A. No.

Q. No one ever discussed with you why they were making that change?

A. No, other than what I just said. That was my perception and that was some of the stuff that I had heard.

Q. How did that affect your job responsibilities?

MR. REYNOLDS: Object to the form.

A. They changed.

Q. To what?

A. They changed several times.

Q. The first time?

A. The first time we divided up into, instead of having an entire central system of performing maintenance, we broke the area down into distinct buildings, Tower 2, Tower 1, Tower 4, Tower 5, public space. And we divided up into groups that would concentrate only on their specific areas, as opposed to the whole complex as it had been before.

Q. And that occurred in 1999?

A. As near as I can -- I don't have a timeline with me and all my records are lost,

but as far as I can -- that seems like about a pretty good timeline, yes.

Q. Can you narrow that for me at all? Do you remember what season or what month that occurred?

A. I'm sorry, I don't.

Q. And you said your job responsibilities changed several times?

A. That's correct.

Q. How did they change the next time they changed?

A. The next time I was assigned to construction, tenant alterations, project management.

Q. And how was that different from -- sorry, let me go back.

When you split up the systems, you said you broke them down by building. What were your responsibilities at that point?

MR. REYNOLDS: Object to the characterization of the testimony with respect to systems. You can answer the question.

A. At that point, I was assigned the

maintenance responsibilities for Tower 2 only.

Q. And do you remember approximately how long you were in that position?

A. I guess it may have been a year, thereabouts, give or take.

Q. And then you became responsible for construction, tenant alteration projects --

A. Management.

Q. It would be tenant alterations and project management, correct?

A. Yes.

Q. Why did that change occur, if you know?

A. I don't know.

Q. Do you recall who told you you would be changing from one to the other?

A. My manager.

Q. And who was that?

A. John Castaldo.

Q. Did the Port Authority continue -- strike that.

You testified that at some point in 1999, we, by which I understand you to mean the Port Authority, was that correct?

A. Well, the World Trade Department.

Q. Okay, the World Trade Department, broke the area down into distinct buildings. When you moved on to construction, tenant alteration and project management, did the World Trade Department continue to operate the complex in that manner?

MR. BLATNIK: Object to the form of the question.

MR. REYNOLDS: Misstates and mischaracterizes testimony. You can answer.

A. As far as I can tell, yes. I was no longer involved in the day-to-day operations, but it seemed to me that that's the way they were conducting business.

Q. And approximately at what point did you change areas of responsibility?

MR. REYNOLDS: You mean the next change?

Q. No, no. I'm still focusing on the change from when you were working with regard to maintenance on Tower 2 to when you changed to project --

A. Let's just say project management.

Q. Thank you.

A. You're welcome.

Q. Approximately how long were you in the position of working with project management?

A. I would guess about a year.

Q. Do you remember -- I'm sorry if I already asked you this. Do you remember at what point you made that change to project management?

A. No, I don't.

Q. Do you remember at what point you moved from doing project management to another area of responsibility?

MR. REYNOLDS: Object to lack of foundation.

A. It was right around the time that the lease was signed.

Q. And at that point, your areas of responsibility changed again?

A. At that time, I was named to the transition team, to help Silverstein Properties take over the complex.

Q. And that was around July 2001?

A. Yes, or shortly before. If I had my

diary, I'd be able to give you exact dates, but that's been lost.

Q. Are you aware of who took over your responsibilities after you left the position of being responsible for Tower 2?

A. Genaro Pipitone.

Q. Can you spell that name for me, please?

A. Which one?

Q. Both.

A. G E N N A R O, P I P I T O N E. Did I get it right? Too many N's in Genaro; there is only one.

Q. When you were responsible for Tower 2, who was responsible for the other areas you mentioned?

MR. REYNOLDS: Objection to form. If you understand the question, you can answer it.

A. I don't understand what you're asking.

Q. You testified that, "We," meaning the World Trade Department, "divided up into, instead of having an entire central system of performing maintenance, we broke the area down

into distinct buildings, Tower 2, Tower 1, Tower 4, Tower 5, public space. And we divided it up into groups that would concentrate only on their specific areas." Correct?

A. Correct.

Q. And you testified that your specific area was Tower 2, correct?

A. Correct.

Q. I'm trying to determine who was responsible for the other specific areas?

A. I don't recall.

Q. Did you work with those people in the course of your responsibilities?

A. Yes, but no longer were we coordinated. I mean we were all like in different buildings. We had distinct staffs; where before we would share everyone and dispatch them from a central location, from that point on, we did not leave the confines of our properties. And I don't recall who had the other properties.

Q. Did you communicate with those people in the course of your responsibilities in Tower 2?

A. No. As I said, they were managed as different properties and it would be like if we were here and the people across the street were in a different building, that's how distinct it was.

MS. GIFFIN: Let me introduce a document labeled PORT/SRI 076953 to 076954.

(Malopolski Exhibit 5, document bearing Bates Nos. PORT/SRI 076953 and 954, marked for identification, as of this date.)

Q. Have you had a chance to review that, sir?

A. Yes.

Q. Have you seen this document before?

A. No.

Q. Do you know who Alan Reiss is?

A. Yes.

Q. Who is he?

A. Now he's the assistant director of aviation, Port Authority.

Q. And what position did he hold prior to July 24th, 2001?

A. Director of World Trade Department.

Q. Did you work for him?

A. Yes.

Q. For how long did you work for him?

A. In some way or other, virtually the entire time I was with the World Trade Center.

Q. Did you have a good working relationship with Mr. Reiss?

A. Yes.

Q. Mr. Reiss -- are you aware whether Mr. Reiss was familiar with the World Trade Center mechanical system?

A. Very familiar, yes.

Q. Do you see in this email, Mr. Reiss is referring to an operational nightmare. See that sentence?

A. Yes, I do.

Q. Mr. Reiss says that he's realized "It is an operational nightmare, not just to segregate and meter different utility feeds, but also to operate the systems in separate buildings without possibly impacting the life safety or operation of another." Do you see that?

A. Yes, I do.

Q. Do you agree with that

characterization?

A. Yes.

Q. Can you tell me, in light of that characterization, how the process you've just described, operating the buildings as separate buildings, worked?

MR. REYNOLDS: Object to the form.

A. I was never a proponent of that system, that method of operation. I didn't think it worked well.

Q. Didn't work smoothly?

A. Did not work well.

Q. Why not?

MR. REYNOLDS: Object to the form of the last question. Go ahead.

A. For some of the reasons that Mr. Reiss outlines, and because when the complex was constructed, it was built with a central plan in mind, so to try to carve it up artificially was way too complex. It would have required a massive amount of reconstruction to make it distinct properties. They were just too interconnected.

It's almost like when you have

conjoined twins and then you have to decide who gets what systems, is there enough for everybody? That type of thing.

Q. I'd like to look at some of the examples that Mr. Reiss offers. Mr. Reiss talks about "The fire standpipe systems in the towers are not independent because they interconnect at the B1 level." That's correct, isn't it?

A. Yes, it is.

Q. And the emergency power to the fire standpipe pump system was also designed to operate -- sorry, let me just read the sentence. "The emergency power to the fire standpipe pump system is designed to operate only B1 or 2 WTC pump on emergency, but not both." Do you see that?

A. Yes.

Q. Have I read that correctly?

A. Yes, you have.

Q. And that was part of the interconnectedness of the fire suppression system, is that correct?

MR. REYNOLDS: Object to the form.

A. Yes.

Q. And similarly, Mr. Reiss characterized the sprinkler system as interconnected, and that's also correct?

MR. REYNOLDS: Object to the form, characterization of the document.

Q. For your reference, sir, I'm looking at paragraph number 2 now.

A. Okay. For the part of the system that he mentions in that paragraph, yes. But when you get outside of the area he's talking about, no, because he's outlined the sprinkler system for the subgrade plaza mall and Customs House, all the loading zones, but when you get up into the towers themselves, the sprinkler systems were distinct and separate.

Q. We'll talk about those sprinkler systems in a little while. But for now, am I understanding you correctly that paragraph 2 is correct?

A. Paragraph 2 is correct in what it says, yes, but we cannot infer that it goes beyond the narrow scope of what he talks about there.

Q. And in paragraph 4, Mr. Reiss

discusses the power from the subgrade A and B tower substation, is that correct?

A. Yes.

Q. TWR in that sentence is meant to reference tower, is that how you understand that?

A. Yes.

Q. And he offers that as another example of how it would be an operational nightmare to segregate the system, is that correct?

MR. REYNOLDS: Object to the form.

A. In the context that he's talking about, yes. See, what he's talking about here is the difficulty in segregating costs, because there were multiple areas that were served by the same substation. I don't think that you can say that it was impossible to separate them for operational purposes, just that it would be difficult to say where the power came from for, say, the parking garage on the B2 subgrade level.

Q. Operationally speaking, in your opinion, it was not best to run the systems as separate systems, though, is that correct?

MR. REYNOLDS: Object to the form.

A. I didn't say that.

Q. I'm sorry. Is that correct, or do you disagree with that statement?

A. I don't understand the question.

Q. A little earlier I asked you a question about how the buildings were operated as separate buildings, and you testified that you were never, never a proponent of that system, that method of operation. That's correct, isn't it?

A. That's correct. I didn't say it couldn't be done; I just said I didn't think it was a good idea.

Q. In connection with your job responsibilities, you became familiar with the heating and ventilation system for the World Trade Center complex, correct?

A. Correct.

Q. Can you tell me where that was located?

A. It was located all over the place.

Q. Can you expand on that a little bit?

A. To be more specific, in the towers,

the HVAC was located on the B6 level, the 7th floor, the 41st floor, the 75th floor and the 108th floor.

Q. And the floors you've just referred to, those are called mechanical equipment rooms?

A. Or for short, MER's, yes. And then there were other MER's throughout the complex for the other buildings.

In the 4 World Trade Center, there was a 285 subgrade level; that's an elevation, 285 MER. We refer to it by its elevation, a relative to a datum. A lot of things were referred to in terms of the USGS datum, as to where they were relative to sea level. So this is a 285 MER, let's say, B1, B2, subgrade level, and the 9th floor.

And then in 5 World Trade Center, there was a mechanical room on the 282 level, and the 9th floor. And there were various mechanical rooms tucked around the concourse for different stores and whatnot.

And I'm not familiar with the mechanical rooms in the Customs House. We were not allowed entry to that area generally.

Q. For the record, you said -- you referred to 285 as a reference number, is that correct?

A. An elevation.

Q. Can you tell me exactly what 285 is meant to describe?

A. There's a USGS, United States Geological Survey, datum point for all different levels in Manhattan. And the concourse level at the World Trade Center was 310. Anything below that was measured in feet; for instance, the B6 mechanical room would be level 242, or 68 feet below the lobby.

So that's the way that a lot of things were referred to. When you went below grade, you're talking elevations rather than floors, because some things were not located on a floor and it might be located between floors, such as exhaust fans or truck dock and garage exhaust.

Q. Are you finished with your answer?

A. Yes.

Q. I wanted to make sure I didn't interrupt you. You've described several

mechanical equipment rooms and locations. Were those designed to work together within the World Trade Center complex?

A. I don't understand what you mean by together.

Q. Well, did they -- did the operations for each of those locations affect the operations at the other locations?

A. No.

Q. If one broke down, would it affect the way the rest of the system functioned?

A. No.

MS. GIFFIN: I'd like to introduce Exhibit 6, PORT/SRI 152670 through 152671.

(Malopolski Exhibit 6, document bearing Bates Nos. PORT/SRI 152670 and 671, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. I'm on the copy line, I may have. But I saw a lot of documents exactly like this, maybe hundreds, so this specific one, I imagine I did.

Q. Can you tell me what this email is

discussing, please?

A. An electrical shutdown.

Q. On June 28th, 2001, correct?

A. Yes.

Q. I'm reading the subject line for the email. Were electrical shutdowns of this sort common at the World Trade Center?

A. Yes.

Q. I'd like to refer you to the bottom of this document?

A. First page?

Q. Yes. There's a paragraph towards the bottom of that page there, do you see that?

A. Yes.

Q. And the second sentence of that paragraph reads, "This shutdown will occur in substation 41 south, located in Tower A. It will affect all power (120/208V and 277/480V) supplied from the south electric closet, located on floors 25 through 58, as well as various elevators and mechanical equipment." Do you see that?

A. Yes.

Q. Have I read that correctly?

A. Yes.

Q. Can you describe for me what substation is being discussed here? Can you describe for me its location?

A. It's an electrical substation on the 41st floor of Tower A, south side.

Q. And this shutdown was expected to affect various systems within the World Trade Center complex, is that correct?

MR. REYNOLDS: Object to the form.

A. That's correct.

Q. If I could refer you now to the second page, there's a sentence that starts on the first page and spills over to the second page and says, "Below is a list of all affected areas." Correct?

A. Correct.

Q. And in that list, there's a reference to SE quadrant and another reference to SW quadrant, do you see those?

A. Yes, I do.

Q. Can you tell me what that is meant to refer to?

A. The towers were divided into

quadrants defined by the cross corridors. If you have ever been in the building, in the center there were corridors that ran just like a cross, north, south, east, west, depending on what tower you were in. And the quadrants were named northeast, northwest, southeast, southwest, depending upon their geographic locations.

Q. So the reference on this list is meant to indicate what?

A. The southeast and the southwest quadrants.

Q. Of the World Trade Center complex?

A. Of Tower 1 in the vicinity of the 25th to the 58th floor.

Q. That would be affected by the shutdown of this electrical station?

A. Correct.

Q. There's also a reference to "Kitchen Tower Panel L44S/B." Do you see that?

A. Yes.

Q. What is that meant to refer to?

A. On the 43rd floor there's a cafeteria, or was a cafeteria, and apparently

the lighting panel --

MR. REYNOLDS: Right there.

A. Lighting panel 44 south, lighting panel B, could be a circuit breaker box which controlled power to the kitchen. This says that that would be out of service at that time.

MS. GIFFIN: Let me introduce the next exhibit, which is PORT/SRI 162355 to 356.

(Malopolski Exhibit 7, document bearing Bates Nos. PORT/SRI 162355 and 356, marked for identification, as of this date.)

THE WITNESS: Unknown? I don't know that person.

MR. REYNOLDS: He doesn't know himself.

Q. Have you seen this document before, sir?

A. I may have, but I don't recall.

Q. This document is a series of emails exchanged amongst various people, is that a fair characterization?

A. Yes.

Q. And as I understand it, the top email

is sent from an individual named Nancy Seliga, and was not sent to you, but that the email directly below it was sent to you?

A. I am on the copy line, that's correct.

Q. Do you have any reason to believe you did not receive that email message with the other email message attached --

A. I do not.

Q. -- on or around the date of June 27th, which is on that line?

A. Sure.

Q. Can you tell me what is the subject matter of this exchange of emails, please?

A. This is a notification that we were going to be shedding load, electrical load. From time to time during the summer, Con Edison would ask if we would reduce our power consumption, and we would be able to identify equipment which could be taken off line to save electric usage.

And we would isolate that equipment in order to cut down our peak demand and to help the entire power grids stay healthy, not put an

undue draw, because we pulled a lot of power.

Q. And when you referred to our in that answer, you being the World Trade Center complex?

MR. REYNOLDS: Object to the form.

A. Correct.

MS. GIFFIN: I believe we're about to run out of time on the videotape, so let's take a short break.

THE VIDEOGRAPHER: Time is 3:39. This completes tape number one.

(Recess taken.)

THE VIDEOGRAPHER: The time is 3:50. This begins tape number 2 of the videotaped deposition of Mr. Dennis Malopolski.

BY MS. GIFFIN:

Q. Sir, you were testifying about Exhibit 7 prior to our break. And you described it as an email exchange in which you were able to identify equipment that could be taken off line to save electric usage, correct?

A. Correct.

Q. Who was responsible for identifying which equipment could be taken off line at the

World Trade Center complex in response to this request?

MR. REYNOLDS: Object to the form.

A. This is a list of equipment that will be taken off line. This has already been decided.

Q. And who was responsible for that decision?

A. We had decided this by consensus years ago, because there is certain redundant equipment; there is certain sectionalization of the buildings. And as we saw in the electrical shutdown on the previous exhibit, you can take out a substation that would only take out a block or a portion of the tower and a portion of the floor.

So many years ago we sat down and between electrical, mechanical and operations, and we decided what we could live without and still maintain full functionality so that the tenants would not be inconvenienced while saving electricity.

Q. And there's a list in the middle of the page of four items that are identified as

systems you would be shutting down, is that an accurate characterization?

MR. REYNOLDS: Objection to the characterization of the document.

A. Are you referring to lobby chandeliers, plaza fountain, tower MERs, and subgrade exhaust fans, is that what you're referring to.

Q. That's exactly right.

A. Yes.

Q. These are shared systems between the World Trade Center Twin Towers, correct?

MR. REYNOLDS: Object to the characterization.

A. No. The lobby chandeliers are distinct in each tower.

Q. When you made the decision to shut down the lobby chandeliers, how do you go about -- strike that.

When you shut down the lobby chandeliers, how do you go about doing that? How did you go about doing that?

A. We would assign a contract electrician to go and turn off the switch.

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Q. Was there just one switch that operated the chandeliers in the World Trade Center complex?

MR. REYNOLDS: Object to the form.

A. I don't know. I would assume there would be a panel box or perhaps a series of circuit breakers that would, you know, handle different zones.

Everything was broken down into quadrants and zones. And when you design systems like the World Trade Center, you want to have the ability to be able to isolate portions of it without taking the whole business out of service so that you could perform maintenance.

So if you wanted to do work on the electrical system that served the lobby chandeliers, I would imagine that you'd have the largest -- the smallest piece would be, or the largest rather would be a quadrant.

And you would probably have breakdowns inside there. You might have this row, the next row and the row after that on separate circuit breakers. But in any event, they would all be in the same spot

Q. And was that -- would that also be true for the tower MERs return fans?

A. No. Someone, a mechanical person would be assigned to go to each one of the MERs and turn off the fans. As I said before, there was B6, 7, 41, 75 and 108. And this refers to return fans on all of those floors, and further return fans for all of the quadrants.

So each quadrant would have three return fans, and we'd be turning one off, so that would mean four fans on each mechanical room floor, or 20 for each tower.

Q. And it was decided that those return fans throughout the complex were fans that you could essentially do without during this load shedding, is that correct?

MR. REYNOLDS: Objection to characterization.

A. Correct.

Q. And similarly, the subgrade exhaust fans were fans that you could do without during this load shedding, correct?

MR. REYNOLDS: Object to characterization.

A. Selected fans, not all the subgrade exhaust fans, but just some of the subgrade exhaust fans. There was a lot of redundancy in the equipment, like a belt and suspenders, almost.

Q. If I could refer you to the second page of this document.

MR. REYNOLDS: I said I would bring it up and I forgot to before we went back on the record, but Mr. Malopolski does need to leave by 5:00 as his departure time, and I just wanted to let you know that.

MS. GIFFIN: I understand that Mr. Malopolski has some family demands that make it necessary for him to leave that early, am I correct?

MR. REYNOLDS: That's correct.

MS. GIFFIN: It seems unlikely to me that I will cover all the material that I need to cover with him. And I understand that he has family needs and I want to be able to allow him to meet those responsibilities, but I want to be on the record reserving our right to, as to this

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particular witness, complete the deposition as soon as we can all get into the same place at the same time.

MR. REYNOLDS: I will note that this deposition was moved to today at the request of Carolyn Williams of your firm, who asked that it be moved to this afternoon to accommodate her schedule, and who said that if she got him at 1:30, she would only take three hours and that was plenty of time.

So whatever rights you have, which I think are minimal, you can reserve them. But we will not voluntarily agree to produce Mr. Malopolski again.

Q. We were talking about the second page of this document, sir. And this portion of the document is discussing elevators and the effect of the shutdown on elevators, is that a fair characterization?

A. Yes.

Q. Can you tell me what information, what is this meant to convey, the information contained on this page?

A. I'm not familiar with the elevator

system, but to me, it looks like a list of specific elevator cars that would be taken out of service.

Q. And this list refers to four buildings within the World Trade Center complex and escalators as well, correct?

A. Correct.

MS. GIFFIN: I'd like to introduce the next document which is PORT/SRI 143655.

(Malopolski Exhibit 8, document bearing Bates No. PORT/SRI 143655, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. I don't recall, but I am on the copy line so I may have.

Q. Do you have any reason to believe you would not have received this email on or about July 25th, 2001?

A. None.

Q. What is the subject matter of this email, please?

A. It similarly looks exactly like the one we saw before, which calls out, I believe

individual elevator cars to be taken out of service.

Q. This email refers to a shutdown for today's power reduction, do you see that?

A. Yes.

Q. Is that similar or the same as the load shedding we discussed a moment ago?

A. I believe it's exactly the same.

Q. And these are systems that have been identified as systems that the World Trade Center complex would shut down as a result of the power reduction, correct?

MR. REYNOLDS: Object to characterization.

A. Correct.

Q. In connection with your job responsibilities, did you become familiar with the use of steam in the World Trade Center complex?

A. Yes.

MS. GIFFIN: I'd like to introduce the next exhibit in sequence, PORT/SRI 166507.

(Malopolski Exhibit 9, document

bearing Bates No. PORT/SRI 166507, marked for identification, as of this date.)

Q. Have you had a chance to review that document, sir?

A. Yes, I have.

Q. Have you seen it before?

A. Yes, I have.

Q. What is it, please?

A. It's a notice of a steam shutdown.

Q. Did you receive this document on or about July 19th, 2001?

A. Yes, I did.

Q. Is it your understanding that Philip Hamann -- am I pronouncing that correctly?

A. Hamann.

Q. Is the author of this document?

A. Yes.

Q. The second sentence of this memorandum reads, "To facilitate this work, it will be necessary to shut down the main steam supply to the complex." Do you see that sentence?

A. Yes.

Q. What is the main steam supply to the

complex?

A. There was one main line that came up the utility rack which fed the whole complex.

Q. Where was the utility rack for the World Trade Center located?

A. It ran from Barclay Street to Liberty Street, just the west side of the 1 and 9 subway at the B1 level, also known as the main truck dock of the World Trade Center complex.

Q. Do you have an understanding of what the purpose was of distributing this memorandum on July 19th, 2001?

A. Yes. There would be a reduced availability of steam throughout the complex and this would be to notify the property management people and the people operating the building at that time that this was going to be happening.

Q. In the course of your job responsibilities, did you come to understand the fire suppression system at the World Trade Center complex?

MR. REYNOLDS: Object to the form of the question.

A. Yes, somewhat.

Q. Can you describe for me briefly what you understood about the World Trade Center fire suppression system?

MR. REYNOLDS: Object to the form and object to the characterization.

A. I'm not an expert in that part of the business, but as I understand it, there are sprinkler systems and standpipe systems to distribute water for fire suppression. Also smoke alarms, smoke detectors, speaker and strobe systems to alert tenants of an alarm condition. And there is also a series of fire command stations throughout the complex which were staffed to provide control of the system.

Q. Were you familiar with the sprinkler systems in the World Trade Center complex prior to September 11th, 2001?

A. Yes.

Q. Are you familiar with the term sectionalizing valves?

A. Yes.

Q. Can you describe for me what that term means, please?

A. When you have a mechanical system,

like a sprinkler system, a piping system, you would want to be able to work on different portions of it while keeping other portions active, so there would be valves called sectionalizing valves whereby you could close off just a portion of the system and keep the rest of it active.

Let's say like a pizza pie that was cut into eight sections, you could work on one piece of the pie and have the other 7/8ths still active so you wouldn't have to shut the whole thing down if you needed to do any maintenance or repairs.

Q. Do you know if there were sectionalizing valves on the sprinkler system in the World Trade Center?

A. Yes, there were.

Q. Do you know where they were located?

A. Some of them, yes.

Q. Can you tell me where? For those that you know the location, can you tell me -- strike that. That was a bad question.

Where were the ones you knew about?

A. I had created a map of the public

spaces on the concourse at the World Trade Center, where I did a survey and identified all of the sectionalizing valves.

Q. Do you still have that map?

A. I was able to obtain a copy of it and I passed it on to Tim Stickelman.

Q. I assume that's been produced?

A. I did not have a copy. I was fortunate that I was able to contact the consultant that I worked with and he retained a copy.

Q. Who is the consultant you worked with?

A. Myer, Strong & Jones, an engineering firm in New York City.

Q. Who is the individual you worked with at that engineering firm?

A. Charles Magnelli.

Q. Are you familiar with the status of the fireproofing at the World Trade Center prior to September 11th, 2001?

A. Can you repeat it? I missed one of the your words.

Q. Yes. Were you familiar with the

status of the fireproofing at the World Trade Center prior to September 11th, 2001?

MR. REYNOLDS: I object to the form.

A. I don't know what you mean by status.

Q. Were you familiar with the extent to which the World Trade Center had been fireproofed? Strike that. Let me try again.

Was there fireproofing at the World Trade Center?

A. Yes.

Q. Can you describe for me what you know about that fireproofing, please?

A. Steel members were coated with fireproof material.

Q. Do you know the extent to which steel members were coated with fireproof material at the World Trade Center prior to September 11th, 2001?

MR. REYNOLDS: Object to the form of the question.

Q. You can answer.

A. I believe all the steel was coated with fireproofing.

Q. Are you familiar with a project

within the Port Authority to upgrade the fireproofing in the World Trade Center?

A. I don't understand the question.

MR. BLATNIK: I also object to the form of the question.

Q. Are you aware of whether the Port Authority made any decisions within the last five years to upgrade the fireproofing at the World Trade Center complex?

A. I'm not --

MR. REYNOLDS: Object to the form of the question.

A. I'm not privy to those, that kind of information.

Q. Who would make that kind of decision?

MR. REYNOLDS: Object to the form of the question. You can answer.

A. Engineering and risk management.

Q. And by engineering, are you referring to the engineering division at the Port Authority?

A. Correct.

MS. GIFFIN: I'd like to introduce the next exhibit which is 10, PORT/SRI

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166104 through 111.

(Malopolski Exhibit 10, document bearing Bates Nos. PORT/SRI 166104 through 111, marked for identification, as of this date.)

Q. Have you seen that document before, sir?

A. Yes.

Q. Can you tell me generally what the subject matter is of this document?

A. It refers to a tenant alteration that Morgan Stanley Dean Witter did in 5 World Trade Center, fourth floor.

Q. And this is an exchange of emails over the course of several days in March 2001, correct?

A. A virtual flurry of emails, yes.

Q. And did you receive these emails?

A. Yes.

Q. On or about the dates that are here indicated?

A. Yes.

Q. I'd like to refer you to a line in the middle of the first paragraph at the top of

the first page that says, "You are correct that WTD's fire alarm system is proprietary and therefore requires special attention."

A. Where is that?

Q. In the middle of the first paragraph.

A. Oh, middle of the first -- okay.

Q. Do you have an understanding -- first, do you know what WTD is meant to refer to?

A. World Trade Department.

Q. Did the World Trade Department have a proprietary fire alarm system at the World Trade Center?

A. Yes.

Q. In what sense was it proprietary?

A. It was built expressly for the World Trade Center. There was none other like it.

Q. And it was built for the entire World Trade Center, correct?

A. Yes. There were a lot of things at the World Trade Center that were different than anywhere else.

Q. If I could refer you to page 166106. Sir, there is a sentence -- and this document is

a little difficult to read.

A. It is.

Q. But there is a sentence which begins, "If you choose to proceed in that direction"?

A. Yes.

Q. And the end of that sentence states that "Occupancy will require that the fire alarm system work as a whole." Do you see that?

A. Yes, I do.

Q. Do you have an understanding of what that was meant to convey?

A. Yes.

Q. Can you tell me, please?

A. They were building out a whole floor and they wanted to move people in. And we were stressing the fact that the fire alarm system would have to work for the whole floor.

Q. Before they could move in?

A. Before they could move people into the space, yes.

Q. And that system had to work with the World Trade Center's proprietary system, is that correct?

MR. REYNOLDS: Object to

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mischaracterization. Lacks foundation.

A. It was the World Trade Center proprietary system. They were, they would receive -- when they did a tenant alteration application, they would receive specifications that would demand that they build the fire alarm system a certain way.

Q. And it was their responsibility to make sure that their fire alarm system was built to function with the proprietary system at the World Trade Center?

MR. REYNOLDS: Object to characterization.

A. That was, in fact, the proprietary system; not that it was built to work with it, but that they in fact built the system the same way as the system was built throughout the entire complex. So the specifications were very specific.

Q. I'd like to return briefly to our discussion about sectionalizing valves in the sprinkler system at the World Trade Center. Were those manually operated?

A. Except for four valves, yes.

Q. Meaning that in order to operate them, one had to be physically at the site where the sectionalizing valve was, correct?

MR. REYNOLDS: Object to the form.

A. Except for the four that had motor operators, that is correct.

Q. Do you recall, sitting here today, where the four that had motor operators were located?

A. Yes, I do.

Q. Where were they?

A. Two of them were in the ceiling of the Sbarro Restaurant.

Q. Sbarro Restaurant was in the retail mall of the World Trade Center, is that --

A. Correct.

Q. And the other two?

A. The other two were just outside of the north tower, Tower 1. I think it was a new tenant, Thomas Pink, that that space was being built out and the motor operators were put in there. We put in motor operators where it was difficult or impossible to get to the valves.

Q. Were those two also in the retail

mall area of the World Trade Center?

A. Yes.

Q. From where could one operate the motor operators for these sectionalizing valves?

A. They would be put out in a space that was easily accessible. For instance, Sbarro's motor operators were operated from the service corridor behind the restaurant.

Q. Still in the retail mall?

A. Yes.

Q. And the other two, do you know where they were operated from?

A. They were in the process of being wired up to operate from a hallway that went down to the operations control center, once again, outside the retail space but also outside the public space, somewhere where only World Trade personnel would be --

Q. And you said they were in the process. Do I understand you correctly that that process was not complete as of September 11th, 2001?

A. That's correct.

Q. So it wouldn't have been possible to

operate those on September 11th, 2001?

A. It would have been possible because they were readily accessible at that time because the space was under renovation. When the space was complete, they would have been buried inside a finished ceiling where it would have been difficult to get to.

Q. So on September 11th, if you could physically get to those sectionalizing valves, you could operate them manually, but you could not yet operate them from a remote location, is that correct?

A. That's correct.

Q. Do you have an understanding of the term fire pumps?

A. Yes.

Q. Can you tell me briefly what that means?

A. Pumps that would move water for fire suppression.

Q. And were there fire pumps at the World Trade Center?

A. Yes.

Q. Do you know where they were located?

A. Yes.

Q. Can you tell me, please?

A. They were in different areas, in mechanical spaces.

Q. Were the fire pumps at the World Trade Center manually operated?

A. Yes.

Q. Could they be activated remotely?

A. Yes, in some cases.

Q. In which cases?

A. I believe the ones in the 294 mechanical rooms. Once again, that's an elevation.

Q. Can you tell me which floor those 294 mechanical rooms were on?

A. That would be the service level, just below the concourse. Concourse being 310, 294 would be 16 feet below that, which would be the service level, what we call the B1 level.

Q. Were there any other fire pumps that could be activated remotely?

A. When you say remotely, do you also mean on automatic control? Because there were pumps that would come on if there was a drop in

the pressure, specifically the ones that we were just talking about.

If there was -- let's say that a sprinkler head was activated and the pressure inside the head dropped, those pumps would automatically start by themselves with no one doing anything. It would be an automatic control.

Q. Setting aside those kinds, that kind of automatic control that would come on when there was a pressure drop, if I understand what you're saying, was it possible to activate the fire pumps remotely?

MR. REYNOLDS: Object to the form of the question.

A. Not in all cases.

Q. In any cases?

A. I can't really recall, except for the specific ones that we just talked about.

Q. On the B1 level?

A. Yes.

Q. And you can't recall any others as you sit here today?

A. Well, see, when you get into fire

pumps, you have to get into domestic water pumps too, because domestic water and fire suppression water are the same. So there were a lot of -- if we talk about the fire reserve tanks that fed the sprinkler system, they were on automatic makeup and they were fed from the domestic water system.

So if you had a drop in level in the fire reserve tanks, they would automatically fill on pressure control. That was a transparent system; no one had to do anything.

Q. Setting aside those automatic responses, was there a way in which it was possible to activate a fire pump from some location that wasn't next to the fire pump, again setting aside the automatic responses you just described?

A. No.

Q. Mr. Malopolski, I hope to be able to come back and discuss with you some of the work you did after the 1993 bombing, but for the moment, let me skip ahead.

Were you, during calendar year 2001, were you ever asked to provide information about

the mechanical system of the World Trade Center to anyone in connection with the World Trade Center lease?

A. Yes.

Q. To whom did you provide such information?

A. Anyone that my management sent me to provide it to. There were a lot of people that needed information and I saw a lot of people.

Q. Are you familiar with a group called Alternative Insurance Works?

A. Yes.

Q. Did you provide information to Alternative Insurance Works in connection to the World Trade Center leasing?

A. Yes, I did.

Q. What information did you provide -- strike that.

To whom did you provide such information?

A. My primary point of contact, although he was not the only point, but the primary would be a gentleman by the name of Hickey. That was his last name; his first name escapes me right

now.

Q. John Hickey, does that sound correct?

A. Yes, that sounds correct.

Q. What kind of information did you provide to Mr. Hickey in connection with the World Trade Center lease?

A. All kinds of stuff. We spent quite a bit of time together, went over HVAC, went over refrigeration plant, went over steam equipment, went over fire suppression. Basically all the mechanical systems.

Q. Did you provide drawings to Mr. Hickey that represented some of the systems you just described?

A. Yes.

MS. GIFFIN: I'd like to introduce the next exhibit which is marked AIW 480.

(Malopolski Exhibit 11, document bearing Bates No. AIW 480, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's a line diagram showing the sprinkler systems in the 1 and 2 World Trade Center towers.

Q. Do you know who created this document?

A. No, I don't.

Q. Did you provide this document to Mr. Hickey in connection with the World Trade Center lease?

A. It's a good possibility that that's true.

Q. What did --

A. I turned over a lot of documents to Mr. Hickey at the direction of my management.

Q. Do you believe this to be an accurate -- strike that.

The title of this document is "Riser Diagram Sprinklers," correct?

MR. REYNOLDS: Towers A and B.

MS. GIFFIN: Thank you.

A. Correct.

Q. Do you believe this to be an accurate representation of riser diagram sprinklers in Towers A and B?

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A. Yes.

Q. Can you tell me, is this information that the Port Authority kept in the normal course of its business with regard to the World Trade Center?

A. Yes.

MS. GIFFIN: I'd like to introduce as the next exhibit a document marked AIW 481.

(Malopolski Exhibit 12, document bearing Bates No. AIW 481, marked for identification, as of this date.)

MR. REYNOLDS: I'm sorry, sir?

THE WITNESS: Would I be able to have a copy of these for myself?

MS. GIFFIN: I think we'll have some spares.

MR. REYNOLDS: We'll make you a set of them.

MS. GIFFIN: Okay.

THE WITNESS: That's great, because, you know, it's -- just to have.

MS. GIFFIN: Yes.

THE WITNESS: I haven't seen that in a while.

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. This was a line diagram of the sprinkler main on the B1 level of the World Trade Center complex.

Q. Is this the document to which you referred earlier when we were discussing sectionalizing valves in sprinklers, and I believe you referred to a line drawing in connection with that conversation, do you remember that?

A. Yes, but this is not it. This is like it. There's another loop that is one level above this that we spoke of, but it mirrors this one very closely.

Q. Is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. Probably.

Q. Where did you -- stepping back from this particular document. I gather you testified that you had provided drawings to

Mr. Hickey in connection with the World Trade Center lease, correct?

A. Correct.

Q. Where did you get those drawings?

A. There were various sources. These last two exhibits that we looked at are part of a series of manuals which described the mechanical and electrical systems at the buildings. It was a set of maybe 30 loose-leaf orange books which contained drawings, pictures, descriptions of various systems.

These came out of a book, probably labeled "Sprinkler." So like I said, there were about 30 books that these came out of. Also I gave him base building drawings which we had on file, and which I had additional copies made for him. And those were drawings that were produced when the building was constructed.

Q. And let me go back to the 30 loose-leaf orange books. Those were books created by the Port Authority?

A. Yes.

Q. By employees of the Port Authority?

A. Yes.

Q. And maintained by the Port Authority?

A. Correct.

Q. And the base building drawings you had on file, do you know who created those?

A. Port Authority engineering. Those were detailed blueprints; these are line diagrams. But the base building drawings would be to scale, actual -- probably as-built drawings, which were much more detailed than these pictures.

Q. The title of this document is "Schematic Sprinkler Loop Main - B1 Level," correct?

A. Correct.

Q. Do you believe this is an accurate representation of the sprinkler loop main on the B1 level?

A. Yes.

Q. And you believe that because of your familiarity with these systems, correct?

A. Correct.

Q. And the same is true of the document Exhibit 11, correct, you're able to talk about that because of your familiarity with those

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systems?

MR. REYNOLDS: Object to the form.

A. Not only my familiarity with the systems, but my familiarity with the particular drawing. You see, I would refer to these when I needed to understand or find -- or work with the systems. No one, well, at least not I, can remember all this stuff. So these would be reference documents that I would go to.

Q. And I see at least one reference on Exhibit 12 here to sectional control valve?

A. Yes.

Q. I'm looking in particular about the middle of the page where it says sectional control valve number 2?

A. Right, exactly, yes.

Q. Is that the same thing as the sectionalizing valves we discussed earlier?

A. Yes, it is.

Q. So I would be able to identify from Exhibit 12 -- sorry.

Would I be able to identify from Exhibit 12 all sectionalizing valves in the sprinkler looping on the B1 level?

A. You should be able to, yes.

MS. GIFFIN: I introduce Exhibit 13, AIW 482.

(Malopolski Exhibit 13, document bearing Bates No. AIW 482, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the sprinkler loop on the concourse level.

Q. Do you know who created this document?

A. I do not.

Q. Did you provide this document to John Hickey in connection with the leasing of the World Trade Center?

A. Probably.

Q. Do you know where you would have gotten this document from in order to provide it to Mr. Hickey?

A. It would have come out of the same orange loose-leaf book as the previous two.

Q. Are you able to determine whether or

not this is an accurate representation of the sprinkler loop on the concourse level of the World Trade Center prior to September 11th, 2001?

A. It's an accurate representation, but it doesn't tell the full story. That's why we produced another drawing, because the locations that it calls out were no longer there at that time. For instance, if you look in the upper right-hand corner, you see Alexander's, right? That department store was no longer there at that time.

If you look at the Garden Path Florist and Lynn's Hallmark, Border's Books and Innovation Luggage, all those retail spaces were different at the time of the map that we upgraded.

So this is a rough approximation. But the map that we created was a lot more detailed.

Q. When did you create that map?

A. Maybe -- we were in the process of doing it in the year before September 2001, so it was already produced and in use prior to that

incident.

Q. And did you provide that map to Mr. Hickey?

A. I don't recall.

Q. Do you know if a copy of that map still exists?

A. That's the copy of the map that I gave to Mr. Stickelman.

Q. Thank you.

A. And it's like this, but it was much more detailed; it's an as-built. This is a line drawing.

Q. I understand. You've identified for me several stores that were no longer at the locations that are indicated on this diagram, is that correct?

A. That's correct.

Q. Do you have any reason to believe that the information about the sprinklers was different?

A. The actual piping, no.

Q. Would any of the information about interconnection as represented on this diagram have been different?

A. It should substantially be accurate, yes.

MS. GIFFIN: Let me mark Exhibit 14, AIW 0483.

(Malopolski Exhibit 14, document bearing Bates No. AIW 483, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's a line diagram of the fire standpipe system at the World Trade Center.

Q. Did you provide this diagram to Mr. Hickey in connection with the World Trade Center lease?

A. Probably.

Q. Where did you get it from?

A. The orange book, as the previous three.

Q. As maintained by the Port Authority?

A. Yes.

Q. This diagram is titled "Tank and Pump Systems, Fire Standpipe, World Trade Center,"

correct?

A. Correct.

Q. Do you know if this is an accurate representation of the fire standpipe -- sorry, the tank and pump systems, fire standpipe at the World Trade Center prior to September 11th, 2001?

MR. REYNOLDS: Object to the form.

A. Yes.

Q. And how are you able to determine that this is an accurate representation?

A. From having seen the drawing before, and having seen the systems before.

MS. GIFFIN: Exhibit 15 is AIW 0484.

(Malopolski Exhibit 15, document bearing Bates No. AIW 484, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire standpipe, concourse level, World Trade Center.

Q. And is this a drawing that you gave

to John Hickey in connection with the World Trade Center lease?

A. Probably.

Q. Is it an accurate representation of the distribution loop fire standpipe on the concourse level prior to September 11th?

A. Yes.

Q. How do you know that?

A. From my experience with the drawing and the equipment.

Q. And where would you have gotten this document from?

A. It would have been contained in the orange manuals as the previous one, two, three, four were.

MS. GIFFIN: Exhibit 16, AIW 0485.

(Malopolski Exhibit 16, document bearing Bates No. AIW 485, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire

standpipe on the B1 level of the World Trade Center.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. Is this information that you gathered from the same Port Authority manuals we've been discussing?

A. That's correct.

Q. Is this an accurate representation of the distribution loop fire standpipe on level B1 prior to September 11th, 2001?

A. Yes.

MS. GIFFIN: Exhibit 17, AIW 486.

(Malopolski Exhibit 17, document bearing Bates No. AIW 486, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes.

Q. What is it?

A. It's a riser diagram, fire standpipe, level B6 to the 7th floor, Tower A.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. Is it information you gathered from the Port Authority manuals we've been discussing?

A. That's correct.

Q. Do you believe it to be accurate?

A. Yes, I do.

MS. GIFFIN: Exhibit 18 is AIW 487.

(Malopolski Exhibit 18, document bearing Bates No. AIW 487, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes, I have.

Q. What is it?

A. It's a continuation of the previous drawing. It takes it from the 7th floor to the 41st floor.

Q. Is that information you provided to Mr. Hickey?

A. Probably.

Q. Is that information you would have gathered from the Port Authority manuals maintained by the Port Authority?

A. Yes.

Q. Do you believe it to be accurate?

A. Yes.

Q. And that's based on your experience with these drawings?

A. Correct.

MS. GIFFIN: Exhibit 19 is AIW 488.

(Malopolski Exhibit 19, document bearing Bates No. AIW 488, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes.

Q. Did you also provide this to Mr. Hickey?

A. Yes.

Q. From information that you gathered from the Port Authority manuals?

A. Yes.

Q. Do you believe this to be accurate?

A. I do.

Q. Based on your experience with the drawings on this system?

A. Yes.

MS. GIFFIN: Exhibit 20 is AIW 489.

(Malopolski Exhibit 20, document

bearing Bates No. AIW 489, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes, I have.

Q. What is it?

A. It's the final one in the series that we've been looking at. It takes the standpipe from 75 to 110 in Tower A.

Q. Is this information you provided to John Hickey?

A. Probably.

Q. It's information gathered from the manual that's maintained by the Port Authority?

A. Yes.

Q. Do you believe it to be accurate?

A. I do.

Q. And that's based on your experience with these drawings and with the system, correct?

A. Correct.

MS. GIFFIN: Exhibit 21 is AIW 490.

(Malopolski Exhibit 21, document bearing Bates No. AIW 490, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes.

Q. What is it?

A. I think it's a copy of one that we looked at earlier.

Q. I think you're right. I believe Exhibit 15.

A. Yes, it's the same.

Q. Are they identical?

A. They appear to be, if I hold them up and look through them.

Q. Fair enough.

A. They're titled the same. They look to be the same.

Q. They appear to contain the same information?

A. Yes.

Q. And they both appear to be documents you gathered from the Port Authority maintained manual?

MR. REYNOLDS: They appear to be the very same document is what he's saying, not two documents, not two separate documents that he found.

Q. That's fair. Do you believe --

A. I believe they are identical. If I hold them up, I can't see any difference when I shine the light through them.

Q. Good thing we're in a sunny room.

MS. GIFFIN: Exhibit 22 is AIW 491.

(Malopolski Exhibit 22, document bearing Bates No. AIW 491, marked for identification, as of this date.)

Q. Have you seen this document before?

A. Yes, I have.

Q. What is it, please?

A. This is the beginning of a series of documents just like we went through in Tower A, which shows the fire standpipe line diagram, B6 to the 7th floor.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. Is this information you gathered from the Port Authority manual as we've discussed?

A. Yes.

Q. Do you believe it to be accurate?

A. I do.

Q. Based on your experience with --

A. Yes.

Q. Sorry, with the drawings and with the system, correct?

A. Yes.

MR. REYNOLDS: Just for clarity, I don't think you mentioned which tower this document refers to.

Q. For clarity --

A. This is Tower B.

Q. Thank you, sir.

MS. GIFFIN: Exhibit 23 is AIW 493.

(Malopolski Exhibit 23, document bearing Bates No. AIW 493, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire standpipe, floors 41 through 75, Tower B.

Q. This is information you provided to Mr. Hickey?

A. Probably.

Q. Gathered from the Port Authority manuals we've discussed?

A. Yes.

Q. And is the information accurate?

A. According to my knowledge of the document and the systems, I believe it should be.

MS. GIFFIN: Exhibit 24 is AIW 492.

(Malopolski Exhibit 24, document bearing Bates No. AIW 492, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a riser diagram, fire standpipe, floors 7 through 41, Tower B.

Q. Is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. Yes, I believe it is.

Q. And was it gathered from the Port Authority manuals you've described?

A. Correct.

Q. Do you believe it to be accurate based on your experience with the drawings and with the system?

A. I do.

MS. GIFFIN: Exhibit 25 is AIW 493.

(Malopolski Exhibit 25, document bearing Bates No. AIW 493, marked for identification, as of this date.)

THE WITNESS: We got out of sequence there, too. We went from B6 to 7 and then we went from 41 to 75, and then went back to 7 to 41.

MS. GIFFIN: My apologies for having gone out of sequence.

THE WITNESS: That's okay.

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire standpipe risers, floors 75 through 110, Tower B.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. And did you gather it from the Port Authority manuals you've described?

A. Yes, I did.

Q. Do you believe the information in here to be accurate?

A. I do.

Q. Based on your experience with the drawings and the system?

A. Correct.

MS. GIFFIN: Exhibit 26 is AIW 495.

(Malopolski Exhibit 26, document bearing Bates No. AIW 495, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire standpipe risers for the subgrade at the World Trade Center.

Q. And is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. Probably.

Q. Is this information you gathered from the Port Authority manual you discussed?

A. Yes.

Q. Do you believe the information in there to be accurate?

A. I do.

Q. Based on your experience with the systems and with the drawings?

A. Correct.

MS. GIFFIN: Exhibit 27 is AIW 496.

(Malopolski Exhibit 27, document bearing Bates No. AIW 496, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes I have.

Q. What is it?

A. It's a line diagram of the fire standpipe risers in the subgrades at the World Trade Center.

Q. Is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. It probably is.

Q. Is this information you gathered from the Port Authority manuals we've discussed?

A. Yes.

Q. And do you believe it to be accurate?

A. I do.

Q. Based on your experience with the drawings and with the system, correct?

A. Yes.

MS. GIFFIN: Exhibit 28, AIW 498.

(Malopolski Exhibit 28, document bearing Bates No. AIW 498, marked for identification, as of this date.)

MS. GIFFIN: We're also going to do these slightly out of order. My apologies.

THE WITNESS: Of course, this is assuming that no one has altered these drawings.

MS. GIFFIN: I understand. You don't have any reason to believe anyone has altered the drawings?

THE WITNESS: No. They appear to be the drawings that came from the orange books, but unless I sat down and studied

them -- they don't appear to be altered. And I'm assuming they came from Mr. Hickey?

MS. GIFFIN: I will represent to counsel that they have been -- these are drawings pulled from the Alternative Insurance Works report, for purposes of reference.

Q. Have you seen that document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the standpipe hose rack locations on the concourse level of the World Trade Center.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. Is this information you gathered from the Port Authority manuals?

A. Yes.

Q. Do you believe it to be accurate based on your experience?

A. I do.

MS. GIFFIN: Exhibit 29 which is AIW

497, going back a page. My apologies.

(Malopolski Exhibit 29, document bearing Bates No. AIW 497, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the fire standpipe risers in the subgrade of the World Trade Center.

Q. Is this information you provided to Mr. Hickey?

A. Probably.

Q. Is this information you gathered from the Port Authority manuals you've described?

A. Yes.

Q. And do you believe it to be accurate based on your experience?

A. I do.

MS. GIFFIN: Exhibit 30 is AIW 499.

(Malopolski Exhibit 30, document bearing Bates No. AIW 499, marked for identification, as of this date.)

MS. GIFFIN: We went 497, 498, 499.

MR. REYNOLDS: Fine. This is going to have to be the last exhibit because it's now five o'clock.

MS. GIFFIN: Mr. Reynolds, I have three more pages after this that I would like to get through.

MR. REYNOLDS: Can we go through three more exhibits? Is it going to be the same types of questions?

MS. GIFFIN: Same types of questions.

THE WITNESS: We're going pretty fast. I think we can do that.

MS. GIFFIN: Thank you.

Q. Have you seen Exhibit 30 before?

A. Yes, I have.

Q. What is it?

A. It's a line diagram of the standpipe and hose rack locations on the B1 level at the World Trade Center.

Q. Is this information you've provided to Mr. Hickey?

A. It probably is.

Q. Did you get this information from the

Port Authority manuals we've discussed?

A. Yes.

Q. Do you believe it to be accurate based on your experience?

A. Yes.

MS. GIFFIN: Exhibit 31, AIW 500.

(Malopolski Exhibit 31, document bearing Bates No. AIW 500, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's a line diagram of the fire standpipe and hose rack locations on the B3 level of the World Trade Center.

Q. Is this information you provided to John Hickey?

A. Probably.

Q. Is this information you gathered from the Port Authority manuals you described?

A. Yes.

Q. Do you believe this information to be accurate based on your experience?

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A. I do.

MS. GIFFIN: Exhibit 32 is AIW 501.

(Malopolski Exhibit 32, document bearing Bates No. AIW 501, marked for identification, as of this date.)

(Discussion off the record.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. A line diagram of the fire standpipe and hose rack locations, B5 level, World Trade Center.

Q. Is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. Probably.

Q. Is this information you gathered from the manuals maintained by Port Authority as you've described?

A. Yes.

Q. Do you believe the information to be accurate based on your experience?

A. Yes.

MS. GIFFIN: Exhibit 33, AIW 502.

(Malopolski Exhibit 33, document bearing Bates No. AIW 502, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It is a line diagram of the fire standpipe and hose rack locations, B6 level, World Trade Center.

Q. Is this information you provided to Mr. Hickey in connection with the World Trade Center lease?

A. Most likely.

Q. Is this information you gathered from the manuals maintained by the Port Authority as we've discussed?

A. Yes.

Q. Do you believe the information contained here to be accurate?

A. Yes.

Q. Based on your experience?

A. Correct.

MS. GIFFIN: Mr. Malopolski, I understand that you have to leave now due to family obligations.

And Mr. Reynolds, I also understand what you put on the record regarding discussions earlier today, but again for the record, we do have more questions for this witness. And you and I can discuss that off the record, but we do need to ask some more questions of this witness.

Mr. Malopolski, thank you very much for your time today.

THE VIDEOGRAPHER: The time is 5:07 p.m. and this videotaped deposition will be adjourned.

(Time noted: 5:07 p.m.)

_____

DENNIS MALOPOLSKI

Subscribed and sworn to before me this ___ day of _____, 2002.

_____

C E R T I F I C A T E

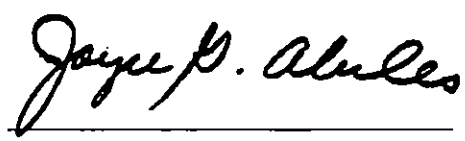
STATE OF NEW YORK )
: ss.
COUNTY OF NEW YORK )

I, JOYCE G. ABELES, a Notary Public within and for the State of New York, do hereby certify:

That DENNIS MALOPOLSKI, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, 2002.



JOYCE G. ABELES

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*** ERRATA SHEET ***

NAME OF CASE: SRI vs. WTC

DATE OF DEPOSITION: September 30, 2002

NAME OF WITNESS: DENNIS MALOPOLSKI

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DENNIS MALOPOLSKI

Subscribed and sworn to before me

this ____ day of _____, 2002.

_____

(Notary Public)

My Commission Expires: _____

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SR INTERNATIONAL BUSINESS INSURANCE CO., LTD.,

Plaintiff,

vs.

No. 01 CV 9291 (JSM)

WORLD TRADE CENTER PROPERTIES LLC; SILVERSTEIN PROPERTIES INC.; SILVERSTEIN WTC MANAGEMENT CO. LLC; WESTFIELD, INC.,; THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY; GMAC COMMERCIAL MORTGAGE CORPORATION; UBS WARBURG REAL ESTATE INVESTMENTS INC.; WESTFIELD WTC LLC; WESTFIELD CORPORATION, INC.; WESTFIELD AMERICA, INC.; 1 WORLD TRADE CENTER LLC; 2 WORLD TRADE CENTER LLC; 4 WORLD TRADE CENTER LLC; 5 WORLD TRADE CENTER LLC; and WELLS FARGO BANK MINNESOTA, N.A. AS TRUSTEE FOR THE REGISTERED HOLDERS OF GMAC COMMERCIAL MORTGAGE SECURITIES, INC., MORTGAGE-BACKED PASS-THROUGH CERTIFICATES, SERIES 2000-WTC,

Defendants.

CONTINUED CONFIDENTIAL VIDEOTAPED DEPOSITION OF DENNIS MALOPOLSKI
New York, New York
Friday, October 18, 2002

Reported by:
JOYCE G. ABELES
JOB NO. 141128

CONFIDENTIAL

October 18, 2002

9:20 a.m.

Continued confidential videotaped deposition of DENNIS MALOPOLSKI, held at the offices of Skadden Arps Slate Meagher & Flom, 4 Times Square, New York, New York, pursuant to adjournment, before Joyce G. Abeles, a Notary Public of the State of New York.

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RAJIV MONGIA, Exponent
JOHN RELIHAN, Port Authority

D E N N I S M A L O P O L S K I, resumed as a witness, having been previously sworn by a Notary Public, was examined and testified further as follows:

EXAMINATION (Cont'd)

BY MS. GIFFIN:

THE VIDEOGRAPHER: This is the tape labeled number one of volume II of the videotaped deposition of Dennis Malopolski. We're now going on the record. The time is 9:19 a.m.

Q. Good morning, Mr. Malopolski.

A. Good morning.

Q. Thank you for coming back. I'd like to remind you as the court reporter just did that you're still under oath.

I'd also like to remind you to please answer my questions orally rather than nodding or shaking your head so the court reporter can get down our answers.

And let's remember not to speak over each other so that the court reporter can get down what I'm saying and what you're saying, okay?

A. Yes.

Q. Also again, if you don't understand a question, please ask me to clarify or try to communicate better so that you can answer the question; otherwise I'll assume you understand it, okay?

A. Okay.

Q. Did you prepare for the continuation of your deposition today?

A. No.

Q. You never met with anyone?

A. No.

Q. Have you, either in preparation for this deposition or the previous deposition, ever met with lawyers from Wachtell, Lipton, Rosen & Katz?

A. No.

Q. Did you review any documents to prepare for the continuation of your deposition today?

A. No.

Q. I'd just like to clarify something that you talked about at your last deposition. I believe you said that your current job

responsibilities include oversight of the World Trade Center site, is that correct?

A. That's correct.

Q. Can you just tell me at what point in time your responsibilities began to include the World Trade Center site?

A. Late July, I believe maybe the 22nd. I'm not certain. I'd have to check my diary on the date.

Q. Mr. Malopolski, as you may recall, when we finished your deposition on September 30th, we had discussed a series of drawings. Do you recall that?

A. Yes, I do.

Q. And you had testified that those series of drawings were drawings you believe you provided to John Hickey in connection with the World Trade Center lease, do you remember that?

A. Yes, I do.

Q. And I believe you also testified that you got those drawings out of a manual that was kept by the Port Authority, is that correct?

A. A series of manuals, yes.

MS. GIFFIN: I'd like to introduce as

the next exhibit in the series a document Bates stamped PORT/SRI 194571 through 194818.

(Malopolski Exhibit 34, document bearing Bates Nos. PORT/SRI 194571 through 194818, marked for identification, as of this date.)

(Discussion off the record.)

Q. And let me know when you've had a chance to review this exhibit.

MR. STICKELMAN: Do you want him to review the entire document?

MS. GIFFIN: No.

Q. Just go through it and if I have specific questions about a particular page, I'll let you know.

A. Okay.

Q. Have you seen this document before, sir?

A. Yes, I have.

Q. Can you tell me what it is, please?

A. It's one of the orange manuals as we referred to, instructions of operations and maintenance systems of the World Trade Center.

Q. And this is for the fire protection system, correct?

A. That's correct.

Q. And the name of this document is "Instruction Manual 23," correct?

A. Correct.

Q. Is this one of the manuals you referred to, one of the manuals that you got information from to give to John Hickey?

A. Yes.

Q. The cover page of this document states that it's a final edition, do you see that?

A. Yes.

Q. Is this, in fact, the final edition that was produced of this manual?

MR. STICKELMAN: If you know.

A. I don't know.

Q. This says at the top, it says engineering department on the cover page, do you see that?

A. Yes, I do.

Q. Is that meant to indicate that this manual was produced by employees of the

engineering department of the Port Authority?

A. That's correct. May -- let me qualify that. Employees or contractors, consultants.

Q. And those contractors would have worked at the direction of the engineering department of the Port Authority, correct?

A. That's correct.

Q. And the engineering department is the department of the Port Authority that had responsibility for the fire protection system at the World Trade Center?

MR. REYNOLDS: At what point in time?

MS. GIFFIN: Prior to the lease.

A. No.

Q. No?

A. The engineering department would be involved in designing and building the fire protection system, modifications to it, you know. They were kind of the people who would conceive of the concept, research the documents and codes, and make sure that it was all up to snuff and produce the drawings, bid out the contract, and follow the contractor as it was

built.

Q. So those individuals would be familiar with the fire protection system in the course of their responsibilities for the Port Authority, is that correct?

A. Yes.

MS. GIFFIN: I'd like to introduce the next exhibit in sequence, a document Bates stamped EXP 009808 through 010067.

(Malopolski Exhibit 35, document bearing Bates Nos. EXP 009808 through 010067, marked for identification, as of this date.)

(Discussion off the record.)

Q. If I can just go back for a minute. I had asked you a question about the engineering department and you had described their responsibilities. And I can frame that question in terms of the engineering department's responsibilities prior to the lease?

A. Yes.

Q. Were those responsibilities, as you described them, also the responsibilities of the engineering department as of February 1986?

Malopolski - Confidential

MR. CHEUNG: Objection to form.

MR. STICKELMAN: Do you know?

A. I don't know. I would believe so.

Q. And remind me, were you with the Port in 1986?

A. Yes.

Q. And what was your position at that time?

A. Watch engineer, Newark Airport.

Q. Was that considered -- strike that.

Let me turn now to Exhibit 35. Have you seen this document before?

A. Yes, I have.

Q. Can you tell me what it is, please?

A. It's an emergency procedures manual for the World Trade Center.

Q. And in what connection did you become familiar with this document?

A. This document was issued to, I guess all the people in my office, a majority of the people in the World Trade Department, with procedures to be followed in the event of different emergencies, different disturbances.

Q. Who created this document?

A. I don't know.

Q. At what point in time did you first see this document?

A. When I started at the World Trade Center.

Q. Which was in 1993?

A. 1993, correct.

Q. This document is dated 2001 on the front cover, do you see that?

A. Yes, I do.

Q. Was this document created in 2001?

A. The document was updated every year.

Q. Were you involved in updating this document?

A. Yes.

Q. In what capacity?

A. I would be assigned several sections to review and make modifications as necessary.

Q. Which sections?

A. It was assigned by my manager. It would be different all the time. Most likely, there would be, in my concentration, cooling water failure, refrigeration plant upset, steam outage, that type of thing, large mechanical

systems.

Q. In 2001, were you involved in updating this document?

A. No.

Q. Why not?

A. At that time, I was assigned to the construction project management division and that was not part of the duties at that time.

Q. Did you review this document in 2001 after it was updated?

A. No.

Q. Can I turn your attention please to page 010030. It's 010030.

A. Okay.

Q. Do you have that?

A. Yes, I do.

Q. At the top of this page, it says, "The following manuals are present in the situation room." Do you see that, sir?

A. Yes.

Q. What is the situation room?

A. The situation room was a part of the operations control center on the B1 level where emergencies would be controlled.

Q. There was only one situation room?

A. Yes.

Q. And the operations control center is also known as the OCC, is that correct -- was also known?

A. That's correct. Those are the first letters of each word.

Q. Toward the bottom of this page -- well, this page is a list of manuals that are present in the situation room, correct?

A. Yes.

Q. And toward the bottom of the page, there's a reference to manual 23, fire protection systems, do you see that?

A. Yes, I do.

Q. Is this meant to indicate that Exhibit 23 -- excuse me, manual 23 was present in the operations control center at all times?

A. That's correct.

Q. And the date on this document is February 1986?

A. Correct. It says original publication date February 1986, which is the last exhibit we just looked at has a publication

date of February 1986.

Q. Does looking at this document assist you in determining whether or not Exhibit 34 was the final version of Instruction Manual 23?

A. That was -- Exhibit 34 is the previous exhibit?

Q. Correct.

A. I would assume so.

Q. Because you wouldn't keep an outdated version of that manual in the operations control center, correct?

A. Correct.

Q. Why did these -- why did the Port Authority keep these manuals at the operations control center?

MR. STICKELMAN: If you know.

A. For reference purposes.

Q. In what situations would people refer to these manuals?

A. Whenever there was an emergency or an upset.

Q. And in the course of an emergency or an upset, Port Authority employees at the operations control center would rely on the

information in these manuals, is that correct?

MR. STICKELMAN: At what point in time?

MR. CHEUNG: Objection.

MS. GIFFIN: Prior to the lease.

MR. CHEUNG: Objection to the form.

A. I'd say they would refer to them, I don't know if they would rely on them. It's like an encyclopedia, a reference manual. You might know something about George Washington, but you might want to look up the detail. So these were reference documents.

Q. The information in these reference documents was meant to be accurate, correct?

MR. CHEUNG: Objection to form.

A. I believe they -- yes, I believe so.

Q. Because it would be important that, to the extent that Port Authority employees relied on these documents, the information in them -- or rather to the extent that Port Authority employees referred to them, the information would be accurate, correct?

A. Yes.

Q. Do you know if these documents were

kept at the OCC after the lease?

A. I would assume so. I was not in that area following the lease so I couldn't really address that.

MS. GIFFIN: I'd like to introduce as the next document in the series PORT/SRI 208699 through PORT/SRI 208805.

(Malopolski Exhibit 36, document bearing Bates Nos. PORT/SRI 208699 through 208805, marked for identification, as of this date.)

Q. Have you had a chance to look at that?

A. Yes.

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's an operation and maintenance manual for the fire standpipe system at the World Trade Center.

Q. And at what point in time did you become familiar with this document?

A. I saw it as soon as I came on board

at the World Trade Center.

Q. In 1993?

A. Yes.

Q. Do you know who created this document?

A. I would assume it was the engineering department since it says that right on the front.

Q. And again, Port Authority employees in the engineering department would have had familiarity with the fire standpipe system in the course of their job responsibilities, is that correct?

A. Yes.

Q. And for the record, this document is titled "World Trade Center Instruction Manual No. 19, Operation and Maintenance of Fire Standpipe Systems," is that correct?

A. That's correct.

Q. And it is dated June 1986, correct?

A. Correct.

Q. Do you know if this is the final version of this document?

A. I see in the center of the page it

says second review. And someone has written "keep" on it, so I'm not quite certain where it is in the hierarchy of updated manuals.

Q. Do you know what second review means?

A. No.

Q. Do you know whose handwriting that is?

A. No.

Q. Can I refer you again to Exhibit 35, page 100030, same page we were looking at before. I believe on this page, it also indicates that Instruction Manual No. 19, Fire Standpipe System was kept in the situation room, do you see that?

A. Yes, I do.

Q. Do you believe that that, referring to Instruction Manual No. 19, Fire Standpipe System, is a reference to Exhibit 36?

A. It could be.

Q. Is there any reason to think it's not?

A. No. But unlike the other publications, it doesn't have a date to the right-hand side. See? Most of them say

original publication and have a date. This one does not.

Q. The information that you provided to Mr. Hickey that we talked about at your last deposition --

A. Yes.

Q. -- did you gather any of that information from Instruction Manual 19?

A. I may have. I gave John a lot of documents and I can't really say specifically whether this one was or was not included in that. I gave him a huge volume of documents. I was instructed to give him everything he asked for and he asked for a lot.

Q. Did you give him everything he asked for?

A. Yes, I did.

Q. Are you familiar with the term fire command center?

A. Yes.

Q. What is that?

A. There was a control desk in the lobby of 1, 2, 4 and 5 World Trade Centers, called the fire command desk for each one of those

properties.

Q. And fire command desk or fire command center, do you know?

A. I guess either term would be interchangeable.

Q. And what was the purpose of that fire command center, if I can refer to it just that way to be consistent?

A. That was staffed 24 hours a day by people monitoring the alarm systems and the elevator systems in the building.

Q. Do you know if these three manuals, Exhibits 34, 35 and 36, were kept at the fire command center?

MR. CHEUNG: Objection to form.

A. I don't know.

Q. Did the fire command center have any specific responsibilities in case of a fire or other emergency at the World Trade Center?

A. Yes.

Q. And what were those responsibilities?

A. I don't specifically know what their duties were because they were not in my world, but I do know that they would, you know, give

information to the fire department when they showed up, make announcements, pretty much be there to assist the fire department when they showed up.

Q. So in the case of a fire or other emergency, the fire department would go to the fire command center?

A. That's correct.

Q. That's the first place they would go?

A. Yes.

MS. GIFFIN: Off the record.

(Discussion off the record.)

MS. GIFFIN: Let's do the next document in the series, a document Bates stamped PORT/SRI 203758.

(Malopolski Exhibit 37, document bearing Bates No. PORT/SRI 203758, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's a map of the World Trade Center mall concourse level, level sprinkler zones.

Q. Who created this?

A. I did.

Q. Is this the document that you referred to in your prior deposition when you were discussing a drawing you had made of the sprinkler system at the World Trade Center?

A. It is one of a series, yes.

MS. GIFFIN: I'll introduce the next document in series, exhibit in series, a document Bates stamped PORT/SRI 203760.

(Malopolski Exhibit 38, document bearing Bates No. PORT/SRI 203760, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's the World Trade Center mall concourse level, sprinkler zone control map. It looks a lot like the other one, but the only difference is that the legend is smaller and one legend is moved to the other side.

It's an exact copy of the one we just looked at, only it's been juxtaposed.

Q. Did you create this document?

A. Not the way it looks, but yes. It's been altered.

Q. Do you know who altered it?

A. No.

Q. But I'm understanding you correctly that the information contained on these two documents is exactly the same except that it is in a slightly different format?

A. It appears to be, but the legend is so small that I can't read it.

Q. I happen to have a magnifying glass to help you here today.

(Discussion off the record.)

A. It looks to be identical.

Q. Thank you.

A. You're welcome.

Q. How did you go about creating -- well, strike that.

For purposes of reference, let's refer to Exhibit 37 since, as I understand what you're saying, the information is interchangeable. If at any point, you think that there's -- I've asked a question that would

be different from one of these exhibits, please let me know.

How did you go about creating Exhibit 37?

A. Researching the documents, existing documents and drawings, and a field survey to verify conditions. I had a consultant who was a mechanical engineer, plumbing engineer, accompany us and do hand drawings on the existing drawings, and then go back and do a CAD rendering of what we had discovered.

Q. Let me go down and ask you a few questions about all that information you just gave me. You said researching the documents, what documents did you research?

A. Base building drawings.

Q. And where did those documents come from?

A. We have them on file in our office.

Q. Any other documents you looked at to create this document?

A. May have looked at the orange manuals.

Q. Do you remember which of those

manuals you would have looked at?

A. The ones specific to the point of endeavor, because we did the sprinkler and standpipe so I think those were separate manuals. So we would have referred to each one, if in fact we did. I'm not quite certain if we did or not.

Q. Any other documents you would have looked at in creating this document?

A. No.

Q. You said you did a field survey to verify the conditions?

A. Yes.

Q. Can you describe for me what a field survey is?

A. Actually get out and walk around and climb inside ceilings and up ladders and around in different spaces to actually verify the location of valves and piping.

Q. Did you do that personally?

A. Yes.

Q. You said you had a consultant who was a mechanical engineer and plumbing engineer accompany you?

A. Yes.

Q. On those field surveys?

A. That's correct.

Q. And you mentioned hand drawings on existing drawings. Who made hand drawings on existing drawings?

A. The consultant.

Q. Did they do that at your direction?

A. Do you mean at each point or prior to the endeavor beginning?

Q. Well, both. But let's start it prior to the endeavor beginning?

A. He was assigned by his management to come with myself and another person, to go out in the field and to prepare, you know, a drawing to be produced. So yes.

Q. I'm sorry, he is who?

A. The consultant.

Q. Which consultant?

A. That would be Meyer Strong Jones.

Q. And was that the mechanical engineer or the plumbing engineer?

A. Both.

Q. So am I understanding you correctly

that there were drawings, existing drawings that you had with you while you were doing the field surveys?

A. Yes.

Q. Did each of your consultants have a set of drawings as you were doing the field survey?

A. Yes.

Q. Did you also have a set of drawings?

A. No.

Q. Just your consultant?

A. Right. I gave him the drawings, so I didn't physically carry drawings around. It was a lot easier; I was carrying flashlights and keys and he was carrying the drawings. So there was no need for another set.

Q. Two sets of drawings, correct?

A. Just one set. Just one set. We would go out, like a search party, and there would be three or four of us, and follow these lines through the ceilings, one guy with a big board with the drawing and other guys with flashlights and keys and stuff, and we would go out as a team.

Q. So your consultants were making marks on the drawing as you were checking the systems, is that correct?

A. That's correct.

Q. During your field survey, did you trace the entire sprinkler loop on the concourse level to make Exhibit 37?

A. Yes.

Q. So you physically went and looked at all of the sprinkler control valves on the mall concourse level?

A. Yes.

Q. With your consultant?

A. Yes.

Q. Making these drawings?

A. Yes.

Q. And based on those marks on the drawings made by your consultant, you created Exhibit 37?

A. He created Exhibit 37.

Q. Thank you. And you reviewed it after he was finished?

A. Yes.

Q. Did you make any corrections after he

was finished?

A. Made modifications as we went along as far as, you know, maybe he got the name of a store wrong or some stuff like that. Or maybe in the interim a store might have changed hands, and so we updated it as best we could. It was a dynamic time; there was a lot of change on the mall, a lot of new retail tenants.

Q. When was this created?

A. I really don't have a date for you. But it was in the period just prior to the lease agreement.

Q. So 2001, correct?

A. Yes.

MR. CHEUNG: Objection to form.

A. Yes, maybe 2000, 2001. I imagine we could get a better date from Meyer Strong Jones because they have records of, you know, the billing for that gentleman's services.

Q. Do you have any recollection of what month or what season?

A. I'm sorry, I don't.

Q. When this document was completed, were you satisfied that it was an accurate

representation of the sprinkler control valves on the mall concourse level?

A. Yes.

Q. As of the time of its creation?

A. Yes.

Q. To your knowledge, would this information have been accurate as of September 11th, 2001?

A. Yes.

MS. GIFFIN: Let's do the next document which is PORT/SRI 203763.

(Malopolski Exhibit 39, document bearing Bates No. PORT/SRI 203763, marked for identification, as of this date.)

Q. Have you seen this document before, Mr. Malopolski?

A. Yes.

Q. What is it?

A. It's the World Trade Center mall concourse level, fire standpipe control valve plan.

Q. Who created this document?

A. I did.

Q. When?

A. At the same time as the previous document.

Q. Did you undergo a similar process in creating this document as you described when creating Exhibit 37?

A. It was simultaneous. We created about I guess six or seven documents, all with the same information.

Q. And at the time this document was created, were you satisfied with the accuracy of the information represented here?

A. Yes.

Q. As of September 11th, would this information have been accurate?

A. Yes.

MS. GIFFIN: Let's do the next exhibit, PORT/SRI 203762.

(Malopolski Exhibit 40, document bearing Bates No. PORT/SRI 203762, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. It's the World Trade Center mall concourse level, fire protection control valve plan.

Q. Who created this?

A. I did.

Q. When did you do that?

A. Simultaneously with the previous.

Q. Undergoing the same process you've already described?

A. It was all at once. All these documents were created from the same field work.

Q. And at the time this document was created, were you satisfied with the accuracy of the information represented here?

A. Yes.

Q. As of September 11th, 2001 would this information have been accurate?

A. Yes.

MS. GIFFIN: Next exhibit is PORT/SRI 203761.

(Malopolski Exhibit 41, document bearing Bates No. PORT/SRI 203761, marked for identification, as of this date.)

Q. Have you seen this document before?

A. It looks like the one we just looked at.

Q. Do you believe Exhibits 40 and 41 are identical?

A. They appear to be.

Q. This is also a document -- strike that.

So this document is a document you created?

A. Yes.

Q. That is Exhibit 41 --

A. Yes, they're identical.

Q. So everything you testified to about Exhibit 40 would apply to Exhibit 41 as well?

A. Yes.

MS. GIFFIN: Let's do the next document, PORT/SRI 203759.

(Malopolski Exhibit 42, document bearing Bates No. PORT/SRI 203759, marked for identification, as of this date.)

Q. I apologize, I appear to have marked these a little bit out of order. Have you seen this document before?

A. Yes.

Q. What is it?

A. It's the World Trade Center mall concourse level, fire protection control valve signage plan.

Q. What does that mean, signage plan?

A. These would be signs that would identify the location of the sprinkler and standpipe control valves.

Q. Signs that would be placed at locations indicated on this drawing, is that correct?

A. Yes.

Q. Who created this document?

A. Meyer Strong Jones.

Q. Was this created in connection with the process we've been discussing?

A. Yes.

Q. Did you review this document at the time it was created?

A. Yes.

Q. Were you satisfied that the information contained in this document was accurate?

A. Yes.

Q. Would this information have been accurate as of September 11th, 2001?

A. Yes.

MS. GIFFIN: Now we have PORT/SRI 203757.

(Malopolski Exhibit 43, document bearing Bates No. PORT/SRI 203757, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. World Trade Center mall concourse level, sprinkler control valve plan.

Q. Who created this document?

A. I did.

Q. Did you do that in connection with the field survey, document research and other information gathering that we've discussed with the previous exhibits?

A. Yes.

Q. Were you satisfied that the information contained in this document was accurate as of the time it was created?

A. Yes.

Q. Would this information have been accurate as of September 11th, 2001?

A. Yes.

Q. Talking about all of these drawings, from Exhibit 37 through Exhibit 43 for a moment, why did you undertake to create these documents?

A. I was directed by my management to do that.

Q. Were you told why?

A. To, for the lease, in preparation for the lease deal.

Q. Had there been previous documents that indicated this kind of information?

A. Yes.

Q. Given that there were previous documents that had this kind of information in it, were you told why you needed to create new documents?

A. It was an update.

Q. In order to make sure that all of the information contained in this was the most up-to-date information, correct?

A. Yes.

Q. Once you created these documents, did you give them to anyone?

A. Yes.

Q. To whom did you give them?

A. My manager.

Q. And who was that?

A. Frank DeMartini.

Q. And do you know what Mr. DeMartini did with these documents?

A. I know what he did with some of them, yes.

Q. Can you tell me, please?

A. He distributed them to the people who needed to have them.

Q. For example?

A. I know they were posted at the fire command desk. I know that they were given to the current building management at that time. And I believe they were probably given to Mr. Silverstein's people.

Q. Were they also kept at the operations control center?

A. I don't know for sure, but I would assume they were.

Q. Now, I don't believe I see in this group of documents from Exhibit 37 through Exhibit 43 a drawing for the B1 fire standpipes. Can you look at these documents and see, verify that I'm correct?

MR. STICKELMAN: I believe he testified that this is all the concourse level.

THE WITNESS: Right. This is only for the public space, only for the mall, the retail area.

Q. You were not directed -- were you asked to do a similar survey for the B1 level?

A. No.

Q. Do you know why you were directed to do a survey like this for the concourse but not the B1 level?

A. No.

Q. So you didn't gather any similar information on the fire standpipes or the sprinklers for the B1 level at the time you did this?

A. That's correct.

Q. Or any time thereafter?

A. That's correct.

Q. If I could refer you to Exhibit 39, do you know if, as of September 2001, the fire standpipe control valve plan represented on this exhibit, the fire standpipe control valve system complied with New York code?

MR. STICKELMAN: Objection to form. You can answer.

A. I don't know.

Q. Do you know if the fire standpipe valves represented on this drawing each had their own -- sorry, strike that.

Are you aware of whether each fire standpipe riser represented on this drawing had its own control valve?

MR. STICKELMAN: Objection to form.

MR. CHEUNG: Objection to form.

A. I don't understand the question.

Q. Do you know what fire standpipe riser is?

A. Yes.

Q. Can you describe that for me, please?

A. Those would be lines that go up from this loop.

Q. What I'm trying to determine is whether each of those risers had its own control valve?

A. I don't know.

Q. Would that information be contained on this drawing?

A. I don't know. I would have to get a better look at it. This drawing is way too small. We could perhaps discover that if we saw a full-sized drawing.

Q. When you did the survey to create this document, were you looking for those, those kinds of valves?

A. No. The concentration was for the mall level only.

MS. GIFFIN: I'd like to introduce as the next exhibit in series a document that does not have a Bates stamp on it, but I'm informed that the Bates stamp is PORT/SRI 141147.

(Malopolski Exhibit 44, document bearing Bates No. PORT/SRI 141147, marked for identification, as of this date.)

Q. Have you seen this document before,

sir?

A. I may have.

Q. Can you tell me what it is, please?

A. It looks like --

MR. STICKELMAN: Do you know what it is?

A. It looks like one of the base building drawings. It's labeled in a manner that would lead me to believe that, from my experience at looking at base building drawings.

Q. In the lower right-hand corner, I see what appears to be a date, November 15th, 1973, do you see that?

A. Yes, I do.

Q. Is that meant to indicate that this drawing was created on November 15th, 1973?

MR. STICKELMAN: Don't speculate, only if you know.

A. I don't know.

Q. Do these kinds of drawings, in your experience, usually have dates on them?

A. Yes.

Q. Are those dates usually located in the lower right-hand corner?

A. They could be located anywhere. That's what's called a title block. A title block could be in any one of the four corners.

Q. And does the title block date usually indicate the date on which the drawing was created?

A. Yes.

Q. The title block also states, "Schematic Plan of Sectionalizing Valve on FSP Loop," do you see that?

A. Yes.

MR. STICKELMAN: The complete title is "Southeast Plaza Building Concourse."

THE WITNESS: 310 level, 310.

Q. Thank you. Is this document meant to represent the same kind of information that's included on Exhibit 39? Do you have Exhibit 39 in front of you?

A. Yes.

MR. CHEUNG: Objection to form.

Q. But Exhibit 39 is a more up-to-date version, correct?

A. It's an updated version, yes.

Q. Exhibit 39 again is the document you

created to be the most up-to-date version of this kind of information, correct?

A. Yes.

MS. GIFFIN: I'll introduce the next document, which is a document Bates stamped PORT/SRI 141148.

(Malopolski Exhibit 45, document bearing Bates No. PORT/SRI 141148, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. I very well may have.

Q. Can you tell me what it is?

A. It looks like a base building drawing.

Q. And what is the drawing of, if you can tell?

A. The title is "Southeast Plaza Building, 290 to 294 Level, Schematic Plan of Sectionalizing Valves on FSP Loop."

Q. And can you tell us the date of this document?

A. 11/15/73.

Q. And again, that date is most likely

meant to indicate the date on which this document was created, correct?

MR. STICKELMAN: Objection to form.

A. That would be my assumption.

Q. If I could refer you to Exhibit 39, and I'm also going to have you look at Exhibit 15 from your last deposition.

MS. GIFFIN: Sorry, I should have given you some warning.

(Discussion off the record.)

MR. CHEUNG: Do you know if that figure is in -- represented in Exhibit 15 is in Malopolski Exhibit 34?

MS. GIFFIN: That's actually the question I was going to ask.

MR. CHEUNG: I'm just trying to follow along.

MS. GIFFIN: We'll get there eventually. For reference, it's AIW 484 and it's labeled Figure 10.2.

Q. Now, let's start with Exhibit 39.

MR. STICKELMAN: So you want him to have 39, 15? What about 45?

MS. GIFFIN: Wait a moment. Exhibit

39, 44, right?

MR. CHEUNG: 45?

MS. GIFFIN: 44 and 15.

Q. Do you have those three drawings? And I offer you my magnifying glass again, sorry. Starting with Exhibit 39, okay?

I would like to direct your attention to the right-hand side of the actual drawing. Toward the bottom, there are two stores there that appear to be named Innovation and Hallmark, do you see that?

A. Yes.

Q. Next to the Innovation store, there's a small circle around the number 14, do you see that?

A. Yes.

Q. What is that meant to represent?

A. If we go to the key -- to tell you the truth, I don't know, okay?

If we go to the fire standpipe control valve chart, valve number 14 is located in the service corridor, so 14 is the -- do you see the little, from the legend, the drawing for a valve? And 14 is the tag that identifies

which valve it is.

Q. So this is the sectionalizing valve at this location, is that correct?

A. Yes, that's what the legend, the chart says. It says, "Function, section valve."

Q. Okay. If you could look at Exhibit 15, and again towards, on the right-hand side, toward the bottom, there's a reference to FSP 16, do you see that?

A. Yes.

Q. Is this meant to represent the same valve?

A. Yes.

Q. Okay. And if you could refer to Exhibit 44, please. Are you able to locate on Exhibit 44 the location we've been discussing in Exhibit 39 and Exhibit 15?

A. No, I can't.

Q. When you say you can't identify the location -- I'm sorry. When you answered my last question, are you saying you can't find the same location or you can't find the same valve?

A. I can't make any sense of this drawing. It's a very bad rendering. I'm used

to looking at full-sized drawings, at least 24 by 36. This drawing is much too complicated for this reproduction. It's a bad copy.

Q. Okay. But just to verify your previous testimony, you would expect, based on the surveys and information you gathered to create Exhibit 39, that the sectionalizing valve at location 14 actually existed, that there was a sectionalizing valve there, correct?

A. Correct.

Q. I'd like to, still on Exhibit 39, if I could now direct your attention to a little lower down, below the section we'd been discussing before. There is an area that says, "Under Constr.," which I believe is meant to indicate under construction?

A. That's correct.

Q. There is a sectionalizing valve, I believe, on that line represented by number 17, correct? Sorry, a sectionalizing valve that runs off that line?

MR. STICKELMAN: Objection to the form.

A. No.

Q. I'm sorry, what is 17 meant to indicate?

A. 17 in the legend is labeled as a Siamese control valve.

Q. There are no sectionalizing valves on that line, is that correct?

MR. STICKELMAN: Objection to form.

A. I don't see any.

Q. And if I could refer you to Exhibit 15, if you could -- if I could direct your attention to the line that has, I believe, an 8 just above it, can you tell me if that's the same location as we've just discussed on Exhibit 39?

MR. STICKELMAN: I'm just going to make sure if he's looking at the right place. Are you talking about right there?

MS. GIFFIN: Correct.

MR. STICKELMAN: Can you tell?

A. You're talking about the one that has an arrow that says FSP 25?

Q. I'm talking about the line that runs perpendicular underneath that line.

A. And?

Q. Is that the same location as we've just discussed on Exhibit 39?

A. It appears to be.

Q. And again, there's no sectionalizing valve represented on that line in Exhibit 15, correct?

A. That's correct.

Q. So based on the information contained in Exhibit 39, which you've testified was created by you to be the most up-to-date information, and reflected similarly on Exhibit 15, you would expect that there would have been no sectionalizing valve at that location on September 11th, 2001, correct?

A. That's correct.

Q. Now, if I could have you look at Exhibit 44 again, and ask you whether or not you are able to locate the same location we've been discussing?

A. Here and now, no.

MR. CHEUNG: Objection. I'm just going to interpose an objection to form.

MR. STICKELMAN: Are you done with all of these, for now?

MS. GIFFIN: Give me a second.

Q. I'd like to have you look at Exhibit 15 and Exhibit 34.

MR. STICKELMAN: What page on Exhibit 34?

MS. GIFFIN: Page 194740.

Q. Can you tell me if page 194740 is identical to Exhibit 15?

A. It appears to be.

Q. Is it your opinion that that's because the information contained in, that Exhibit 15 is the information you gave to John Hickey from Exhibit 34?

MR. STICKELMAN: Objection to the form.

A. I don't know that.

Q. You testified previously that you believed you gave Exhibit 15 to John Hickey, do you recall that?

A. Yes.

MR. STICKELMAN: Objection. I believe that mischaracterizes the prior testimony.

A. I guess I did. I'm not quite certain.

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MR. STICKELMAN: I believe he testified he's not sure what he actually gave him. He gave him a lot of documents.

Q. Right. I believe when we discussed this on September 30th, you indicated that you probably gave that to John Hickey, but we'll let the prior testimony speak for itself.

If you did give this information to John Hickey, would you have gotten it from Exhibit 34?

A. Is this 34? Yes.

MR. CHEUNG: When you say this information, you're talking about this chart?

MS. GIFFIN: I'm talking about Exhibit 15 and this page.

Q. I'd like to have you look at Exhibit 16 from your previous testimony.

MR. STICKELMAN: It's 10.3, AIW 0485.

Q. And I'd like to refer you to Exhibit 34, page 194741.

A. Yes.

Q. Can you tell me if Exhibit 16 is identical to page 194741?

A. It looks like an enlargement of the same page.

Q. And assuming you gave Exhibit 16 to John Hickey, would you have gotten that information from page 194741 in Exhibit 34?

MR. STICKELMAN: Objection to form. You can answer.

A. Yes.

THE WITNESS: Is it a good time to break now?

MS. GIFFIN: I'd like to get through the questions on this exhibit and then we can break, unless you --

THE WITNESS: Okay, that's fine.

Q. If I can draw your attention to Exhibit 16, in the lower right-hand corner, there's a line that again appears to have an 8 above it. Do you see the line I'm referring to?

A. There are a lot of lines and a lot of 8's.

Q. It also has FSP 10 and then further along the same line, FSP 9.

A. Okay. Yes, I see that.

Q. Can you tell me what FSP 10 and FSP 9

is meant to refer to?

A. Fire standpipe 10 and fire standpipe valve number 9.

Q. Are those both sectionalizing valves?

A. Yes.

Q. Are you familiar with those valves?

A. I don't understand the question.

Q. In the course of your responsibilities at the World Trade Center, did you know where those valves were?

A. I may have.

Q. Do you know sitting here today?

A. There are thousands of valves in the buildings, and in the 10 years I was there, I may have been at this point or I may have not been at this point. I'm not certain.

Q. The sectionalizing valves on the B1 level, were those on the ceiling?

A. For the most part, yes.

Q. Do you have any reason to believe that FSP 10 and FSP 9 would not have been on the ceiling?

A. No.

Q. How, if one wanted to access those

two sectionalizing valves, how would one get to them?

A. I don't understand the question.

Q. Can you tell me briefly the purpose of the sectionalizing valve, just a small encapsulated statement of what it's meant to do?

A. Let's take the analogy of a piece of pie divided into eight pieces, and we'll look at the sprinkler loop as a pie. Suppose we wanted to make some modifications or repairs to a system on the piece of pie number one, we would shut off valves on either side of that piece of pie to keep the rest of the pie and the rest of the loop activated while we worked on this one section.

Q. So if you wanted to shut off the valves that are represented by FSP 10 or FSP 9, how would you go about doing that?

A. I'm not sure I get where you're going with this.

Q. Well, you just told me that the purpose of sectionalizing valves was so that you could shut off valves on either side of an area in order to work on that area, correct?

A. Correct.

Q. I'm trying to get at exactly how you shut them off. Physically, what did you have to do to shut off those valves?

A. Turn the hand wheels.

Q. And for these particular valves, where were those hand wheels located, that is, were they on the ceiling?

A. I believe we said that they probably were.

Q. So how did one get up to those hand wheels?

A. Well, depending on the particular valves, they may have had a chain operator on them.

Q. Do you know whether these particular valves had chain operators on them?

A. I do not. Or most probably if they did not have a chain operator, there would be a permanent ladder installed next to them.

Q. When you say a permanent ladder, do you mean a ladder affixed to that location?

A. Correct.

Q. Would that be on a wall?

A. Yes.

Q. Do you happen to know if there were those kinds of ladders by those particular valves?

A. For those two valves in particular, I do not know.

Q. Do you know what proportion of the sectionalizing valves on the B1 level had chain operator?

A. I do not.

Q. Do you know what proportion of the sectionalizing valves on the B1 level had permanent ladders?

A. If the valves were next to a wall, there would be a permanent ladder affixed to that wall. If they were out in the middle of an open space, there should have been a chain operator. Or a person who was going to close the valve would need to bring a ladder.

Q. So were there sectionalizing valves, to your knowledge, that had neither a permanent ladder or a chain operator?

A. Yes.

Q. As of September 11th?

A. Yes.

Q. And do you know what proportion of sectionalizing valves on the B1 level that was?

A. No.

Q. If you had to bring a ladder, where would you get it from?

A. The person that was going to shut the valve would bring the ladder with them.

Q. Do you know where they would get it from?

A. There were ladders all over. We had a lot of mechanical rooms, a lot of closets, where tools such as ladders, wrenches, et cetera, were stored.

Q. Have any of the drawings we looked at, that we've looked at either in this deposition or the prior day of testimony, included information on the location of those mechanical rooms or closets?

A. No.

Q. Do you know if there was a document that indicated where those mechanical rooms and closets were?

MR. CHEUNG: Objection to form.

A. No.

Q. No, you don't know, or no, there was not? Sorry, my question was unclear.

A. It is unclear. What are you asking me?

Q. Was there a document that indicated where those mechanical rooms and closets were?

A. Yes.

MR. CHEUNG: Objection, form.

Q. How do you know?

A. There were drawings of the entire building, a set of base building drawings which, similar to the ones that we've seen, which would show there was an as-built condition.

Q. Would those drawings have been included in the Port Authority manuals we've discussed previously?

A. No.

Q. Where would one go if one wanted to look at those drawings?

A. They would be in the files of the base building drawings.

Q. Would those drawings have been kept at the operations control center?

A. I don't know.

Q. Do you know if they would have been kept at the fire control centers?

A. No.

Q. They would not have?

A. No, there would not be enough room.

Q. So if someone at the fire control center wanted to know where to find a ladder, how would they go about doing that?

MR. STICKELMAN: At what point in time?

MS. GIFFIN: Let's try as of September 11th, 2001.

A. Someone at the fire control desk wanted to know where a ladder was, how would he go about finding it?

Q. Correct.

MR. STICKELMAN: On September 11th?

MR. CHEUNG: I'd like to interpose a form objection.

A. Best way would be to contact someone on the mechanical operations contract staff and ask them to bring a ladder or to get a ladder or to tell them where a ladder was. These spaces

were locked.

Q. Who kept the keys?

A. There were a number -- numerous keys, so more likely than not, it would be a common key that maybe 100 or 200 people would have.

Q. Would those keys have been kept at the fire control center?

A. I don't know. They could have probably got them on a key rung.

Q. Do you know if they would have kept those keys at the operations control center?

A. All keys for the building were kept at the operations control center, every single one. There was a place called the key room.

Q. So referring back to Exhibit 16, looking at the line we've just discussed, based on this drawing, there are two sectionalizing valves on that line, is that correct?

A. Yes.

Q. Do you believe the information contained in Exhibit 16 was accurate as of September 11th, 2001?

A. I have no reason to doubt it.

MR. CHEUNG: Objection to form.

MR. STICKELMAN: Are you going on to another topic?

MS. GIFFIN: No, almost done.

Q. I'd like to have you look at Exhibit 45 and Exhibit 16. Are you able to locate on Exhibit 45 the same location we've discussed on Exhibit 16?

MR. STICKELMAN: That's the one that's marked number 8, FSP-10, FSP-9?

MS. GIFFIN: That line.

A. Yes.

Q. How many sectionalizing valves are represented on Exhibit 45?

A. I don't know.

MR. STICKELMAN: Objection.

Q. Can you tell me why you're unable to determine that?

A. I would need to have a bigger drawing and I would need time to study it and count them. I can't -- this is a very poor drawing. Once again, it's a very bad copy, and I'm able to understand only portions of it.

So when you ask me how many standpipe sectionalizing valves there are, this covers a

big area, and I can't really determine. But I can see the two that we've been talking about.

Q. Oh, you can?

A. Yes, I can.

Q. Can you see on this document a small circle on that same line that says 17?

A. Further to the right, yes.

Q. I'd like to draw your attention down to the lower left-hand corner of Exhibit 45, do you see that?

A. Yes.

Q. Does that appear to be an enlargement of the area that's on the line we've been discussing near the circled 17?

A. I don't know. It's labeled as a detail. And in drawings, details are meant to represent a standard situation that would occur again and again and again and again. So a detail would call out a typical installation.

Q. Do you see on this detail a reference to 17?

A. I do.

Q. If I could draw your attention back up to the other indication for 17. Do you see a

circle just above the 17 we've discussed?

A. I do.

Q. Is that meant to indicate that that circle is information contained on the detail in the lower left-hand corner?

MR. STICKELMAN: Note my objection to the question.

A. I don't know.

Q. You've testified that Exhibit 34 was kept at the operations control center, correct?

A. Yes.

Q. And that Exhibit 16 appears to be information drawn from Exhibit 34, correct?

A. Correct.

Q. So in case of an emergency, if someone were trying to locate sectionalizing valves, they would rely on information contained in Exhibit 34, correct?

MR. STICKELMAN: On what date?

MS. GIFFIN: On September 11th, 2001.

MR. CHEUNG: Objection, form.

A. I don't know.

Q. Prior to the lease, if someone were trying to locate sectionalizing valves, they

would rely on information contained in Exhibit 34, correct?

MR. CHEUNG: Objection, form.

A. I don't know.

Q. Do you know what the purpose was of keeping Exhibit 34 at the operations control center and fire control center?

A. I believe I stated earlier that it was a reference document.

Q. So if someone at the operations control center referred to this document, attempting to locate sectionalizing valves, you expect that this document would give them the information they needed to locate those valves, is that correct?

MR. CHEUNG: Objection.

MR. STICKELMAN: Objection to form.

A. Who is the someone?

Q. Port Authority employee?

A. In what capacity?

Q. Port Authority employee whose job responsibilities included working at the operations control center or fire command center?

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MR. STICKELMAN: Objection to the form.

A. Let me walk back to this. If someone at the OCC looked at this document, could they find the valve that we're talking about?

Q. Um-hum.

A. I would have to qualify that and say, according to their expertise. If they were familiar with working with this kind of material, then it should lead them to be able to find it.

Q. So there may be employees who didn't have the expertise to read these drawings?

A. Correct.

MR. STICKELMAN: Off the record.

(Discussion off the record.)

Q. Is there any other way that a Port Authority employee working at the operations control center prior to the lease could locate sectionalizing valves besides referring to these drawings?

MR. CHEUNG: Objection to form.

A. I don't understand why a person at the OCC would want to locate the valves.

Q. In case of emergency.

A. The procedure would be to call someone who knew where the valve was.

Q. Who would they call?

A. They would call mechanical operations.

Q. Is that a division of the Port Authority?

A. Yes. World Trade Center department, mechanical operations.

Q. How big is that division?

MR. STICKELMAN: At what point in time?

MS. GIFFIN: Prior to the lease.

A. When prior to the lease? What date prior to the lease? Because we discussed last time how that was a shifting body of personnel that had expanded and contracted several times in the past 10 years.

Q. How about in calendar year 2001?

A. In calendar year 2001, I don't know. I could give you a rough estimate.

MR. STICKELMAN: Don't guess. If you don't know, you don't know.

THE WITNESS: I really don't know.

Q. Was it more than 10 people?

A. Yes.

Q. Was it more than 100 people?

A. No.

Q. More than 50 people?

A. Yes.

Q. More than 75?

A. I don't know.

Q. So somewhere between 50 and 100 people?

A. Yes.

Q. Would all of those 50 to 100 people know where the sectionalizing valves were in case of an emergency?

A. I don't know.

Q. Is there a particular individual that someone would call within that division in case of an emergency to locate this kind of information?

MR. STICKELMAN: At what point in time?

MS. GIFFIN: Prior to the lease.

MR. STICKELMAN: What date prior to

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the lease?

MR. CHEUNG: Objection to the form.

MS. GIFFIN: Calendar year 2001.

A. Who are we looking for?

Q. The person who could tell someone where the sectionalizing valves were.

A. Could you ask the question again?

Q. Sure. I believe you testified that the most efficient way for someone to find the sectionalizing valves in case of an emergency would be to call someone in this division and ask them, is that correct?

A. That's correct.

Q. I'm trying to determine if there's a specific individual that would have been called to gather that information?

A. The procedure would be to call on the radio with the radio call sign, which would be a general designation, and someone would respond. It wouldn't have to be a specific person; it could be any of a number of people.

MS. GIFFIN: I think we are moving on to a different subject at this point so let's go ahead and take a break.

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THE VIDEOGRAPHER: We're now going off the record. The time is 10:49 a.m.

(Recess taken.)

THE VIDEOGRAPHER: We're now going on the record. The time is 11:01 a.m.

BY MS. GIFFIN:

Q. If I could refer you just briefly to Exhibit 45. Am I remembering correctly that you referred to this as a base building drawing?

A. It appears to be.

Q. Would this drawing have been kept at the operations control center?

A. I believe it would.

Q. If there was a more up-to-date version of this drawing, would this drawing still have been kept at the operations control center?

A. Yes.

Q. Why, if you know?

A. As a reference document.

Q. Wouldn't you want people to refer to the most up-to-date version?

A. I thought that's what you were asking. You said if there was a more up-to-date

version, would it be kept --

Q. Sorry. What I meant to ask is if there was a more up-to-date version of this drawing, would this drawing also be kept with the most up-to-date version?

A. No.

Q. Just the most up-to-date version would be kept?

A. Correct.

Q. Sorry. Is that also true for the fire control centers, that is, the most up-to-date drawings would be kept there?

A. I believe I testified that those drawings would not be kept at the fire command desks, that there was not physically enough room. The volume of base building drawings was huge.

Q. Right, thank you. Prior to the break, you said that -- we were discussing who would be called to locate sectionalizing valves. And you indicated that the procedure would be to call on the radio with the radio call sign.

Can you describe for me a little bit more about what you mean by calling on the

radio? I gather there was a radio communication system at the World Trade Center?

A. Correct.

Q. Can you recall that?

MR. STICKELMAN: And we're talking about prior to the net lease?

Q. Well, let me step back for just a minute and cover a little territory that I may explore more later, but at the time of -- do you know the date on which the lease was finalized?

A. I believe that we had agreed it was July 24th.

Q. 2001?

A. 2001.

Q. From July 24th, 2001 to September 11th, 2001, were you still working at the World Trade Center?

A. Yes.

Q. What were your responsibilities?

A. Around that time, I was assigned to be on the transition team to discuss matters of the mechanical systems with the new operators.

Q. And in that capacity, were you familiar with the manner in which the

Silverstein parties -- strike that.

In your job responsibilities from July 24th to September 11th, 2001, did you become familiar with the manner in which the Silverstein parties operated the World Trade Center complex?

MR. STICKELMAN: Objection.

A. No.

Q. In your capacity on the transition team, did you share with the Silverstein parties the manner in which the Port Authority operated the World Trade Center complex?

MR. STICKELMAN: Objection to form.

A. Yes.

Q. Were you involved with, in communications about the extent to which the Silverstein parties would have decided to operate the buildings in a manner different from the manner in which the Port Authority -- strike that. I'd like to start again.

You said you shared information with the Silverstein parties about the manner in which the Port Authority operated the World Trade Center complex, correct?

A. Yes.

Q. In the course of sharing that kind of information, did the Silverstein parties representatives ever indicate to you that they had decided to operate the building in the same way or in a different way?

A. No.

Q. So returning to my question about radio communication, let's stick with the time prior to July 24th, 2001, can you describe for me the radio communication system?

MR. STICKELMAN: Note my objection to the form.

A. A good proportion of the staff in the various trade disciplines would have Motorola radio handsets, that's commonly referred to as walkie-talkies. And due to the large area that these people would be moving about in, that would be the most efficient way to contact them with any messages, or for them to relay any messages back to their supervision.

There were three different bands, at least three different bands, maybe five. The police had a radio band of their own.

Construction had a radio band. Mechanical operations and electrical operations and structural operations shared a radio band. Building operations had their own radio band.

And there may have been others also. The radio handsets were switchable between bands, and depending on which group you belonged to, you would be on that band and your supervisor would be able to contact you and you would be able to contact him.

Q. Can you estimate for me approximately how many radios there were among the World Trade Center Port Authority staff prior to the lease?

A. No.

MR. STICKELMAN: Objection.

Q. Was it more than 100?

A. Oh, yes.

Q. Prior to the lease in 2001, what division of the Port Authority were you personally with, in calendar year 2001?

A. Tenant alterations, construction management.

Q. Did you have a radio?

A. No.

Q. Did anyone within your group have a radio?

A. Yes.

Q. Can you estimate how many people in your group had a radio?

A. Rough guess?

MR. STICKELMAN: Don't guess.

A. I don't know.

Q. Returning to the previous set of questions, you had indicated that in case of an emergency, the most efficient way for someone at the operations control center to locate a sectionalizing valve would be to call the engineering division?

A. I said mechanical operations.

Q. On the radio?

A. Yes.

Q. Do you know how many radios the mechanical operations division had?

A. No.

Q. I'm sorry if I already asked you this, but do you know how many people were in the mechanical operations division prior to the lease?

A. At what time prior to the lease?

Q. Say immediately prior, a month prior?

A. I don't know.

Q. Do you know how many people were in mechanical operations after the lease until September 11th?

A. No.

Q. Was there -- during the time period July 24th to September 11th, I understand that was the transition period from the Port Authority to Silverstein, correct?

MR. STICKELMAN: Objection to the form.

A. Yes.

Q. And during that period, some Port Authority staff continued to work at the World Trade Center, correct?

A. Yes.

Q. And you were among those, correct?

A. Yes.

MR. STICKELMAN: I would just note that the majority of the Port Authority staff is still working at the World Trade Center.

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A. Very few people had left at the time of September 11th.

Q. Some Port Authority employees' responsibilities still included World Trade Center related tasks, correct?

MR. STICKELMAN: Note my objection to the form.

A. I don't understand the question.

Q. Well --

MR. CHEUNG: I just wanted to note, an objection by one person on our side is an objection for all. Thank you.

Q. Are you aware -- during the time period July 24th to September 11th, 2001, do you know who became responsible for what the mechanical operations division of the Port Authority had been responsible for prior to the lease?

MR. CHEUNG: Objection -- okay.

Q. That is, I'm trying to determine if there was a set of employees who took over the responsibilities of the mechanical operations division?

MR. STICKELMAN: Employees of who?

Q. Was there a set of people who took over the responsibilities from the Port Authority employees?

MR. CHEUNG: Objection to form.

A. Silverstein's people.

Q. Do you know who those people were?

A. My contact with Silverstein was Mr. Charles Magee.

Q. Was Mr. Magee in charge of the mechanical operations at the World Trade Center after the lease?

A. Yes.

MR. CHEUNG: Objection, form.

Q. Do you know how many people he had working for him with respect to the mechanical operations at the World Trade Center after the lease?

A. No, I don't.

Q. Do you know whether or not those people were provided with radios?

A. Yes.

Q. Do you know how many radios they were provided with?

A. No.

Q. In the course of your job responsibilities, you became very familiar with the location of the sectionalizing valves we've been discussing, correct?

A. Yes.

Q. Would you have been able to locate or describe the location of a sectionalizing valve at any particular location in the World Trade Center without referring to any of the drawings that we have discussed here today, or any other information?

MR. STICKELMAN: At what point in time?

MS. GIFFIN: At any point in time; sitting here today, September 11th, at any point in time.

MR. STICKELMAN: Note my objection to the question. You can answer.

A. In some cases, yes, and in some cases, no. As I said, there were thousands and thousands and thousands of valves.

Q. So some of them you were familiar enough with that you could describe them without referring to a map, and some of them you would

have to refer to these drawings, correct?

A. Correct.

Q. Are you aware whether anyone else is as familiar with the location of these sectionalizing valves as you are?

A. Yes.

MR. CHEUNG: Objection to form.

Q. Who?

A. Mechanical operations staff that have been there for, in some cases the gentlemen have been there for 30 years. They would be as familiar if not more familiar with their locations than I would be.

Q. Do you mean to say that the entire mechanical operations division staff would be as familiar as you are?

MR. STICKELMAN: Objection.

A. No. Certain individuals.

Q. Can you tell me who those individuals are, were -- are?

A. I guess I could.

MR. STICKELMAN: Do you know?

THE WITNESS: Offhand, no.

A. But I guess if we sat down with a list

of employees, I could perhaps tell you who I thought knew the system better than myself. It would just be a guess on my part.

MR. STICKELMAN: Don't guess.

Q. Just for clarity's sake, I'm discussing people who would know the system as well or better than you, so people who have as much knowledge as you or more.

A. Right.

Q. Can you estimate for me how many people would be included in that group?

MR. STICKELMAN: Objection. You can answer if you know.

A. No.

Q. Would it be more than 10?

A. It would be just a wild guess, but yes.

Q. More than 20?

A. It's still just a wild guess.

MR. STICKELMAN: Don't guess. If you don't know, you don't know.

A. I don't know.

Q. Would it be more than 100?

A. No.

Q. Less than 100?

A. Yes.

Q. Less than 50?

A. Yes.

Q. Fair to say around 20 people, give or take?

A. I think --

MR. CHEUNG: Objection to form.

A. I think we've probably narrowed it down somewhere between 10 and 50.

Q. What was the power source for the radio communication systems prior to the lease?

A. I don't know.

Q. You don't know if they were radio operated or relied on any other kind of power source?

MR. STICKELMAN: He said he doesn't know.

A. I don't know. That's out of my scope of knowledge.

Q. In the course of your responsibilities at the World Trade Center, did you become familiar with emergency procedures for the World Trade Center complex?

A. What are we talking about?

Q. For example, was there an evacuation plan in case of an emergency?

A. I don't know.

Q. Were you ever involved in fire drills when you were at the World Trade Center?

A. No, except as a participant when a fire drill was called on my floor. No.

Q. You said as a participant when a fire drill was called on your floor.

A. Right.

Q. When a fire drill was called on your floor, what was the procedure?

A. Do you see over in the corner, there's a strobe light? And there are probably speakers in this room. When a fire alarm is put in for this floor, the light will flash; there would be a tone through the speakers and an announcement for everybody to evacuate their offices and meet, in our case it would be in the cross corridor, and await further instructions.

Q. The cross corridor would be on your floor?

A. Yes. We had, before we had -- the

last time we talked about how the building was divided into quadrants by a central corridor, north, south, east, west.

Q. Again, just based on your personal knowledge from your participation in these drills, was there a procedure in place for what you were supposed to do if the entire building needed to be evacuated?

A. I don't know.

Q. Were you personally supposed to report to any particular location in case of an emergency?

MR. STICKELMAN: Objection. In his capacity as what?

Q. Do you understand the question?

A. No.

Q. Were you, prior to the lease, were you ever given any instruction as to where you should report in case the entire World Trade Center had to be evacuated?

A. No.

Q. I had thought that you testified previously that in the event of a fire, the responsibility of your group was to report to

the fire command center and await instructions from the FDNY, which I gather is the Fire Department of New York?

A. Correct.

Q. How did you know that that was your group's responsibility?

A. That was disclosed to us by our management.

Q. So in case of a fire, it was your responsibility personally to report to a fire command center?

A. At what point in time?

Q. Prior to the lease.

A. When prior to the lease? As we had discussed last time, my responsibilities changed a number of times in the two years prior to the net lease.

Q. At what point in time was it the responsibility of your group, which I gather would include you, to report to the fire command center?

A. I don't understand the question.

Q. Well, I believe you testified at your last deposition that it was the responsibility

of your group to report to the fire command center in the case of a fire. Was it ever your responsibility to do that?

A. No. I testified that it was my responsibility, not my group's responsibility.

Q. Okay, it was not your group's responsibility?

A. The responsibility would be different for each individual according to what position they held.

Q. I see. But at some point in time, it was your responsibility to report there, correct?

A. Yes.

Q. At what point in time?

A. From 1993 until approximately two years before the net lease.

Q. And remind me, please, what was your job at that point?

A. Which point?

Q. From 1993 until approximately two years before the net lease?

A. I held two positions, one as general maintenance supervisor and one as chief

maintenance supervisor.

Q. And was it because you held those positions that it was your responsibility to report to the fire command center in case of a fire?

A. That's correct.

Q. Did someone take over those positions after you?

A. I'd have to say yes, but due to the reorganizations, it wouldn't be a direct line. You can't say that someone held the same position that I held because everything changed.

Q. From the period 1993 until approximately two years before the net lease, do you know how many Port Authority employees had the responsibility to report to the fire command center in case of a fire?

MR. STICKELMAN: Objection to the form.

A. I do not know.

Q. Can you give me an estimate?

MR. STICKELMAN: Objection. Don't guess.

A. I could just tell you that it was my

responsibility.

Q. When you participated in fire drills, was it -- I believe you testified it would be a fire drill for your particular floor, correct?

A. Yes.

Q. Do you know if those drills were timed?

A. I do not.

Q. In case of a fire at the World Trade Center, prior to the lease, are you aware of whether any Port Authority employee was particularly tasked with the responsibility of coordinating with the Fire Department of New York?

A. If things were the same in the two years prior to the net lease as they were in the time from 1993 up to that point, it would be the fire safety director. But in that two years prior to the net lease, I was not privy to a lot of the things that I was in the period prior to that. But I would assume that things had not changed.

Q. Do you know, in case of a fire, if any Port Authority employee was tasked with the

responsibility for operating sectionalizing valves?

A. Specifically tasked with that? No.

Q. If the Fire Department of New York needed to operate sectionalizing valves in case of a fire, was there a particular Port Authority employee with whom they would coordinate that effort?

MR. STICKELMAN: Objection.

MR. CHEUNG: Objection.

A. That would be the purpose that I would be at the fire command desk from 1993 to two years prior to the net lease. They would ask me and I would assign someone to take care of that, in my capacity as a chief maintenance supervisor.

Q. What if you weren't there, would there be someone else who would take over that responsibility?

A. Yes.

Q. Who?

A. It would be my, my designee, the next guy down the line.

Q. During that period, 1993 to two years

before the net lease, was everyone who you supervised qualified in case of emergency to fulfill that responsibility?

A. Which responsibility?

Q. That of coordinating with the Fire Department of New York to operate sectionalizing valves?

MR. STICKELMAN: Objection.

A. I believe I testified that we would call someone to take care of that, so yes, they would be authorized to give that direction in my absence.

Q. But I believe you also testified that there were a limited number of people who were as familiar with the system as you were, correct?

MR. STICKELMAN: Objection.

A. I said that there were a pool of people that would know.

Q. And if the individual who was coordinating with the Fire Department of New York in a fire was not as familiar with the sectionalizing valves as you or that other pool of people, would they rely on the operations

manual kept at the OCC or the fire control center to gather that information?

MR. STICKELMAN: Objection.

A. I don't know.

Q. Aside from calling you or some other individual similarly familiar with these valves, is there any other way, besides consulting these manuals, that they could gather this information?

A. I don't think so.

MR. STICKELMAN: Objection to form.

MS. GIFFIN: Let's go ahead and change the tape.

MS. GIFFIN: We're now going off the record. The time is 11:29 a.m. This is the end of the tape labeled tape number one of volume II. The videotaped deposition will continue on the tape labeled number 2 of volume II.

(Pause in the proceedings.)

THE VIDEOGRAPHER: This is the tape labeled number 2 of volume II of the videotaped deposition of Dennis Malopolski. We're now going on the record. The time is

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11:31 a.m.

BY MS. GIFFIN:

Q. In that period of time from 1993 until two years prior to the net lease, when it was your responsibility to report to the fire command center, did you ever participate in fire drills where you actually did report to the fire command center?

MR. STICKELMAN: Objection to the question.

A. No.

Q. If you could pull out Exhibit 12, please, and Exhibit 34 again.

MR. STICKELMAN: Just for the record, Exhibit 12 is AIW 0481 and also Figure 8.7.

Q. And if I could point you to page 194729. Does the information on Exhibit 12 appear to be identical to the information on page 194729?

A. Yes, it looks like this is an enlarged copy of that page.

Q. Again, I believe you testified at the prior day of your testimony that you probably gave Exhibit 12 to John Hickey. Assuming that

you did, would you have gotten that information from Exhibit 34, page 194729?

MR. STICKELMAN: Note my objection.

A. Let me go back and say this. This is not the way I said it was; this is actually a reduced copy of Exhibit 12. So Exhibit 12 would be, if I did in fact give it to Mr. Hickey, which I don't have any reason to doubt, this would be the document I gave him. And the one we're looking at here is a reduced size of this.

Q. I see. So you would have given it to Mr. Hickey in the form we see in Exhibit 12?

A. That's correct.

Q. But am I correct that you would have gotten the original drawing and enlarged it from Exhibit 34?

A. No. This is an original drawing, due to the fact that you can see the loose-leaf holes. The books were loose-leaf binders so -- and I recall that the drawings folded in, because anything of this size, you definitely want, you know, bigger than this. Because when you get on to advanced ages, like myself, you can't even see this.

MS. GIFFIN: Let me just direct this to your counsel. Mr. Stickelman, am I correct that this is a document that was produced on a compact disc?

MR. STICKELMAN: I believe it was.

MS. GIFFIN: So it was produced in its original form?

MR. STICKELMAN: Correct.

Q. Just so I can clear up the record, am I correct that if you gave this information, that is Exhibit 12, to Mr. Hickey, it would have been information that you got from Exhibit 34, or the original version of Exhibit 34?

A. Correct.

Q. If I can refer you to Exhibit 13, please, and to page 194730 of Exhibit 34. And if you could tell me if the information included in these two documents appears to be identical?

A. This, in fact, is the same situation that we just spoke about the last two documents.

Q. So again, if you gave this information to Mr. Hickey, you believe it's the information that you drew from the original version of Instruction Manual 23, correct?

A. Correct. And as I said, this would be the original version.

MR. STICKELMAN: Indicating Exhibit 13.

THE WITNESS: The larger one with the loose-leaf holes copied into it.

MS. GIFFIN: I'm done with these.

Q. Mr. Malopolski, are you familiar with the term smoke purge system?

A. Yes.

Q. Can you tell me what that means, briefly?

A. In the event of a fire in a space inside the building, there would be a way to operate the HVAC system to evacuate the smoke from that space.

Q. And was there a smoke purge system at the World Trade Center prior to September 11th, 2001?

A. Yes.

Q. How was it operated?

MR. STICKELMAN: Objection to the form.

Q. Let me clarify the question. I'm not

asking you -- I'm sure you have extensive information on how it's operated. I'm really looking for an overview of how, what location would one go to to locate, to turn it on or to operate it in case it was needed?

A. Okay, quick overview.

MR. STICKELMAN: Note my objection.

A. Quick overview. If there was a smoke condition in a space, there would be smoke detectors which would go into alarm. And the first action would be for those detectors to shut all HVAC off, and also send a signal to the fire command desk.

And then if you wanted to do a smoke purge, there were a number of places where that could be accomplished. In other words, there were multiple controls that would turn those units into the smoke purge mode.

Q. Starting first with the smoke detectors, you indicated that the smoke detectors would shut off all HVAC and send a signal to the fire command desk, correct?

A. Correct.

Q. What was the power source for those

smoke detectors?

A. I don't know.

Q. You also said that there were a number of places that one could accomplish a smoke purge, correct?

A. Correct.

Q. What places were those?

A. The mechanical equipment room could be used to -- the main control panels for that equipment have switches that would put the equipment into smoke purge.

Q. Sorry, which mechanical equipment room?

A. All mechanical equipment rooms. As we have discussed earlier, there were multiple mechanical equipment rooms that served different portions of the complex. And the HVAC equipment would be in that space, but it would serve places perhaps 16 floors away in a single quadrant.

So there were fire control centers for that equipment adjacent to the equipment on that floor. And there were switches that would enable you to go through the different modes.

And so someone on the mechanical room floor could switch the equipment into smoke purge, or there was a remote station which was referred to as Big Blue, which had redundant controls to accomplish the same feat.

Q. Let's start with the mechanical equipment rooms, these switches, those had to be operated manually, correct?

A. That's correct.

Q. And the remote station known as Big Blue, where was that located?

A. That was located on the B1 level in what we refer to as the J zone, just north of Tower 1.

Q. And there were redundant controls in that remote station for the entire complex?

A. Yes.

Q. Were those also operated manually?

A. Yes. Smoke purge was always a manual operation.

Q. Are you familiar with the term emergency power system, sir?

A. Yes.

Q. What does that mean, briefly?

A. That would mean that there would be power that could be switched over to in case the normal source was lost.

Q. Were you familiar with the emergency power system at the World Trade Center prior to September 11th, 2001?

A. In a peripheral manner, yes.

Q. Do you know where it was located?

MR. CHEUNG: Objection to form.

A. There were a number of alternatives for emergency power. We had diesel generators in the B6 subgrade. We had power lines that ran through the PATH tunnel from New Jersey. And in certain cases there were battery backups for systems that were -- you know, like your home computer has a UPS, an uninterruptable power source, that would kick in if everything else lost power, if your three alternatives prior to that were out.

Q. You said in certain cases there were battery backups, can you tell me what kinds of cases there were battery backups for?

A. I don't know.

Q. Were there battery backups for the

entire complex?

A. No. You know, being in my capacity, as it was, I had peripheral knowledge of systems that I wouldn't -- you know, you know things, but you wouldn't know all about it, all right?

And for instance, I would know that there would be a battery backup system for the fire alarms. That would be something that would be like a quadruple redundant system; if you lost power, you lost emergency power, if you lost tertiary power, you would have battery power. That would be something that you'd want powered up.

Now, I don't know how it worked or what, but I did know that it existed.

Q. Are you aware of any other systems for which battery backup existed?

A. No, but I assume there were others.

Q. The power lines that ran through the PATH tunnel, can you describe how they functioned at the backup system?

A. No.

Q. I'd like to refer you to page in Exhibit 34, page 194764. The Bates stamp on

this document, unfortunately, partially obscures the title. Are you able to tell whether this represents the B6 level of the World Trade Center complex? And I see your counsel is looking through the previous drawings; if you need to do that in order to place it in context, please do so.

A. Judging by the fact that it shows the track area and the emergency generator plant, I'm going to have to say that it looks like B6.

Q. This drawing represents -- sorry, strike that.

On the left-hand side of this drawing, about the middle, there are words printed on this drawing that say "Emergency Generator," do you see that?

A. Yes, I do.

Q. Is that an accurate representation of the location of the emergency generator that you referred to on the B6 level?

MR. STICKELMAN: Objection.

A. Well, it is a set of emergency generators.

Q. Those were the diesel generators you

mentioned a few minutes ago?

A. That's correct.

Q. How many were there?

A. There were either seven or eight.

Q. And am I reading this drawing correctly -- sorry, strike that.

Let me ask again. Is this an accurate representation of the location of those diesel generators?

A. Yes.

Q. Do you understand that the location of those emergency generators was bounded by the black line surrounding the words, "Emergency Generator"?

A. Yes.

MS. GIFFIN: Let me introduce the next document -- I only have three of these. A document labeled LZA Technology UB-6.

(Malopolski Exhibit 46, document labeled LZA Technology UB-6, marked for identification, as of this date.)

MR. CHEUNG: What number are we on?

MR. STICKELMAN: 46.

(Discussion off the record.)

Q. Mr. Malopolski, does this also appear to be a drawing of the B6 level of the World Trade Center complex?

MR. STICKELMAN: Objection.

A. From some of the things that are listed here, such as the diesel storage tanks, it could be, but it's not a good rendering and I couldn't say for sure that it is. Although, as I look at it further, I see it says, "Main Chiller Room Pipe Gallery."

That was on the B6 level, so this looks like it's a derivative of the one we just looked at, that someone else, LZA Technology, has taken. And I don't know what the purpose of the drawing is, but I would say that it probably is.

Q. It is labeled "Surface/Subgrade Space Usage Layout Level B6"?

A. Okay, that would be B6. Sorry, I didn't see that.

Q. You said this is not a good rendering. Can you tell me why you say that?

MR. STICKELMAN: First, have you ever seen this before?

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THE WITNESS: No.

Q. Can you tell me why you said it wasn't a good rendering?

A. It doesn't lack the detail of the one we just looked at -- excuse me, it lacks the detail of the one we just looked at.

Q. Can you look again at the one we just looked at, at page 194764?

A. Okay.

Q. Based on your knowledge of the system, and based on your knowledge of the drawings, what I would like you to do is, with a pen, if you can, draw approximately on the LZA drawing the location of the emergency generators that we discussed on page 194764?

MR. CHEUNG: Objection, form.

A. I'm just going to make a slash where a generator would be.

Q. Actually, if you could represent the entire area that would have included all of those generators?

A. Would you just like me to circle it perhaps?

Q. As close as you can get to

representing it as, in the sort of trapezoid shape as represented there, rather than a circle, which would be probably more accurate.

MR. STICKELMAN: If you can do it.

A. What I'm going to try to do is transpose this trapezoid on to here.

Q. To the best of your ability.

A. Because I would say that this drawing is more accurate than this one. That's why I said this is a poor rendering, because there's a lot of divisions in here that I don't recognize.

Q. Okay.

A. (Witness complying.)

Q. I want to make sure that that rendering --

A. I have a black pen.

Q. I just want to make sure that that shows up when copying.

A. Is that better?

Q. If I could just see that. Thank you, sir.

MR. CHEUNG: Can I see it?

MS. GIFFIN: Yes. We're done with that.

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(Discussion off the record.)

MR. STICKELMAN: I assume you want him to initial that?

MS. GIFFIN: Yes, please, and date it.

THE WITNESS: (Witness complying.)

Q. I'd like to refer you now to Exhibit 36, sir. And I point you to page 208750. This appears to be a list of figures that were included in this manual, correct?

A. Correct.

Q. If I could now draw your attention to page 208757 an and 208758. You'll see that page 208757 is labeled Figure 1.1, correct?

A. Correct.

Q. And page 208758 is labeled Figure 4.13, correct?

A. Correct.

Q. Now, if I can refer you back to page 208750, it appears to me that there were a number of drawings in between these two numbers, that is this list includes Figure 2.1, 2.2, et cetera, through several pages, until you get to Figure 4.13. Do you see that?

A. As a matter of fact, there are two

pages of figures referred to between those two.

Q. Based on your knowledge of these manuals, specifically of this manual, do you know whether those drawings were in fact included in this manual?

A. They should have been.

Q. Do you know why they might not be included in this version?

A. I don't.

Q. Are you aware of whether or not those drawings still exist?

A. I don't know. But if we look at some of these figures, I believe they may be here, because you see Figure 2.2 is called the fire standpipe water distribution loop concourse level, so we may in fact have some of these very same drawings in this stack that we've previously labeled as exhibits.

Q. So based on your experience with these manuals, am I understanding you correctly that drawings in this manual would have been consistent with the drawings in manual 23 if they represented the same information?

A. Is this in fact manual 23?

Q. No, this is manual 19.

A. Manual 19. I don't know. But I would guess that they will be the same. Since this 23 was an overview, and 19 is a derivative of the systems mentioned, that's just, you know, logically speaking. But do I know it? I don't know.

MS. GIFFIN: For the record, Mr. Stickelman, I realize that there are difficulties with the Port Authority's records gathering. I assume this has been produced in the best manner you were able to locate it.

MR. STICKELMAN: The originals, as you know, were destroyed on September 11th. If we found them in another facility or if someone had a copy in their desk, that's how we got them.

MS. GIFFIN: And if any versions of these figures were located anywhere else, those would have been produced?

MR. STICKELMAN: Yes, they were.

THE WITNESS: And as I testified, they were loose-leaf manuals, so if they had

gotten them from somewhere else, perhaps someone had opened them up and taken the documents out for reference. So there would be a chance that any stuff that they found might have been incomplete due to the fact that it was a loose-leaf binder.

MS. GIFFIN: I understand, thank you.

Q. I'd like to discuss your experience subsequent to the 1993 bombing of the World Trade Center. Can you remind me again what your position was when you came to the Port Authority in 1993?

A. I came to the Port Authority, I believe, in 1986.

Q. I'm sorry. When you came to the World Trade Center --

A. When I came to the World Trade Center in 1993?

Q. Um-hum.

A. I was general maintenance supervisor.

Q. I believe you testified previously that part of your responsibilities when you came to the World Trade Center were repair of the refrigeration plant, is that correct?

A. That's correct.

Q. Did you have any other responsibilities for repairs at the World Trade Center due to the 1993 bombing?

MR. CHEUNG: Objection.

A. That was my primary focus, was the reconstruction of the refrigeration plant.

Q. Did you have other areas of repairs that you were working on even though they weren't your primary focus?

A. As I said, concurrent with that effort, we were also building refrigeration plants on the street around the complex. And between the main refrigeration plant reconstruction and the erection of the 21,000 tons of refrigeration on the street, that took up all my time.

Q. Can you describe for me the damage that was caused at the World Trade Center as a result of the 1993 bombing?

MR. STICKELMAN: Objection, lack of foundation.

A. How elaborate do you want to be? Are you focusing on structural damage? Are you

talking about location? Equipment damage? People we lost?

Q. Let's start with location.

A. Okay. The bomb was parked in the B2 parking level adjacent to the south wall of the north tower. It was a truck bomb. I believe they calculated it to be about 1500 pounds of ANFO, which would be ammonium nitrate fuel oil explosive.

Q. In the course of your responsibilities, did you become familiar with the kind of structural damage that bomb caused at the World Trade Center?

A. Yes.

Q. Can you describe that for me, let's say in about two paragraphs?

MR. CHEUNG: Objection to form.

MS. GIFFIN: I'm just trying to give the witness an idea of how much detail.

A. The terrorists detonated a truckload of explosives and the blast wave ruptured subgrade levels down to the refrigeration plant and levels above it up through the plaza, creating a hole, let's say approximately, I

don't know, 100 by 200 feet. Kind of just a rough estimate.

And aside from the immediate breaching of those subgrade floors, there was an expanded circle of structural damage of the walls that were knocked down, equipment destroyed, cars blown up and set on fire, lot of smoke damage beyond that.

Q. Did you have any responsibility for repairing the structural damage that you've just described?

A. No.

Q. Can you describe for me the equipment damage that was caused as a result of the 1993 bomb?

MR. STICKELMAN: Objection to form.

Q. Let me step back. In the course of your responsibilities, did you become familiar with the damage that was caused to equipment at the World Trade Center as a result of the 1993 bombing?

A. Yes.

MR. STICKELMAN: Still note my objection.

Q. Can you describe that damage for me, please?

A. I can best describe the damage to the central refrigeration plant since that was the area that I was most involved with at the time.

Q. Okay, I would like to hear that. But are there any other areas of equipment damage that you are familiar with, understanding that you would not be as familiar with those?

A. I'm sure if we took some time and I sat down, you know, it's almost 10 years ago, that we could go chapter and verse, but, you know, what springs to mind is the stuff that I was most involved with.

So you know, there were transfer fans and subgrade ventilation and those types of things. A lot of the HVAC equipment was damaged. It was strange because, as you radiated out from the blast center, there would be stuff that would be untouched and then let's say a duct made a turn, at that point it would be totally blown apart.

So anything that was like in a direct radial line from the blast wouldn't have been

affected, but stuff far away would be. It was weird as you walked around and saw the different -- as the blast wave went out. And there were widely scattered things that were broken.

Q. You mentioned transfer fans, subgrade ventilation and HVAC. Beyond what you just stated, do you have any more detail about the damage that was caused to those three areas?

A. Just anecdotal stuff that I saw walking around. I don't have any documentation or any numbers for you as to specific equipment.

Q. Okay.

A. All the equipment was numbered so...

Q. Let's talk about the refrigeration plant.

A. Okay.

Q. Why don't you describe for me the damage to the refrigeration plant as a result of the 1993 bombing?

A. The primary damage, it turned out that the truck was parked directly above the refrigeration plant. The slab that the truck was parked on was the ceiling of the

refrigeration plant. So when the bomb went off and the ceiling collapsed, and the debris that fell down, the concrete, the structural steel, the reinforcing bars, the cars, landed on the refrigeration machinery and damaged all the electrical switch gear, a lot of the smaller piping, some of the larger piping.

There were some major dents in the main refrigeration machine vessels, and of course, dirt and debris all over everything. Some of the chilled water circulation pumps were destroyed and one of the main motors on one of the big refrigeration machines was pretty much burned up by a car that landed on it and burned.

Q. I'll stop you there for a minute. You referred to main refrigeration machine vessels. Are those also known as chillers?

A. Yes.

Q. How many chillers were in the refrigeration plant at the time of the 1993 bombing?

A. Seven.

Q. Can you describe for me the damage to each of those seven chillers?

A. Sure. If we had a drawing of the refrigeration plant, it might be helpful. If you do have that on hand, it would be --

Q. We'll see if we can locate something.

A. Okay. Well, let's just talk figuratively. The refrigeration plant was on the B5 level. There were seven main chillers.

Q. Let's try referring to page 194763 in Exhibit 34.

A. No, that's not --

Q. Not helpful?

A. That gives you the real -- we'll work with that. You see the room is basically a rectangle?

Q. Yes.

A. Okay. On the near side --

Q. Nearest to the bottom?

A. Yes, nearest to the bottom, there were four refrigeration machines adjacent to one another, side by side across the room.

Q. Why don't you draw those in?

A. You want me to use a black pen?

Q. Yes, if you could use the black pen. Actually, I take it back. Why don't you use a

blue pen? I think it will show up better on a black and white drawing.

A. Okay. They were -- like I said, all equipment was numbered. You have refrigeration machine 1, refrigeration machine 2 -- excuse me, it is the other way. Refrigeration machine 1, 2, 3 and 4. And then on the other side of the room, 5, 6, and 7.

Q. Okay.

A. Each machine being pretty much identical. All York Centravac chillers, 7,000 ton capacity, 7,000 horsepower motors. And they would be used to produce chilled water for circulation to the HVAC units throughout the complex.

Q. Can you go ahead and put numbers on those so to the extent we talk about specific ones, the record will indicate which ones we're talking about?

A. (Witness complying.)

Q. You were going to go ahead and describe the damage.

A. As I said, the truck with the bomb was parked against the south face of Tower 2,

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which as you can see is the line --

MR. STICKELMAN: Is this Tower 1?

THE WITNESS: Yes.

MR. STICKELMAN: You said Tower 2.

THE WITNESS: Oh, I'm sorry. It says Tower A here, okay?

A. Let's say the north side of the room.

Q. Um-hum.

A. The plant was divided into two sides, the high zone and low zone.

Q. High zone being north?

A. No, the -- due to the height of the towers, and the weight of a column of water, if you have a column of water that's a quarter mile high, 1360 feet, that column of water exerts a pressure of a half pound per foot and height.

So if we have a 1360 foot column of water, the pressure at the bottom, static pressure at the bottom is half of 1362, which would be what? 630 pounds, 631 pounds. So just the weight of that column of water is 630 psi; that's the amount of pressure that that water exerts.

So in order to move water up to that

height, you have to exert a pressure on that water greater than the 631 pounds, okay? So in that case, you have to design the equipment to be able to withstand those pressures.

So the equipment on the north side of the room serviced the area of the towers, it serviced the 75th and the 108 mechanical rooms. So that equipment was built to withstand the pressure, the working pressure was 750 psi.

So the internal and the piping and the vessels were different than the machinery on the south side of the room, which we called the low zone equipment.

Q. South side was low zone, north was high zone?

A. High zone, right.

Q. Okay.

A. And the low zone equipment serviced those mechanical rooms lower than the 41st floor. So it did not need to withstand those high pressures. That was built for a working pressure of about 250 psi.

So the piping in the tubes and the shells were considerably thinner. When I say

shells, I mean the pressure vessels of the chillers.

Q. And you're going to describe the damage to those.

A. Okay. In the high zone equipment, machines 6 and 7, which were directly below the point where the truck was parked, received more damage --

(Brief interruption.)

Q. You were saying --

A. Machines 6 and 7 were the most heavily damaged in that some of the large diameter piping on 7 was sheared off, we're talking about 20 inch pipes, was broken off by structural steel falling across it. So that created some damage to the water box.

Q. When you say sheared off, do you mean that it was actually breached?

A. Broken, just broken, snapped off. And that caused some major damage to the water box section on the condenser. All the interconnecting piping on number 7 between the refrigeration compressor and the condenser and evaporator vessels, if we take -- can I write on

the back of this?

Q. Sorry?

A. Can I write on the back of this?

Q. No. We'll give you something else.

A. Let's say you have a compressor and then you have a condenser and an evaporator, so if you were standing on the floor looking at these machines endwise, you would have a compressor and then you have the condenser and evaporator vessels next to it.

Of course these machines were huge; I guess the vessels were in excess of 30 feet long. And the entire assembly of the entire equipment was probably about 20 feet high, quite large.

So between the compressor, the evaporator and the condenser, there's piping, all kinds of interconnecting piping for lubrication, for refrigerant transfer, for water transfer, and all that piping on machines 6 and 7 were badly damaged.

Q. So 6 and 7 could not operate without that piping, is that correct?

A. That's correct.

Q. I think you were talking in particular there about the damage to 7. Was the same kind of damage caused to machine 6?

A. No. Machine 6 had different damage, but no less -- again it was incapacitated. And also there was auxiliary equipment around those machines, such as control panels and electrical switch gear distinctive to each machine. Each machine had a control panel, each machine had electrical switch gear, and those were totally destroyed.

Q. Could any individual machine operate if its control panel had been destroyed?

A. No.

Q. Go on.

A. So 6 and 7 were very badly damaged. Machine 5 to a lesser extent. Machine 4 to a lesser extent. Machine 3 was badly damaged. That was the one whose motor was burned up in a fire by a car that had landed on top of it and the motor needed to be replaced.

Q. The motor of --

A. Machine number 3. And the electrical switch gear and control panel also for machine

number 3, the electrical switch gear for number 2.

So as we're looking here, in the center of the room was where the most damage was, and the further you got from the center of the room, although the machines were damaged, they were less damaged. So the major damage was machines 2, 3, 6 and 7.

Q. What about machine 1?

A. Machine 1 received some damage, but not as extensive as the other four.

Q. Was it operational?

A. It was operational in short order.

Q. How short?

A. April or May. The blast was February 26, so it was brought back pretty quick. Likewise 4 and 5 were operational pretty quickly.

Q. How quickly?

A. Shortly after number 1. So if we're talking, what did I say, April or May for 1, May -- say April, May for 1 and May for 4 and 5.

Q. And 2 and 3? Let's start with 2.

A. 2 and 3 and 6 and 7 all followed. As

I have stated, we had a pretty large crew from York International, the machine's supplier, and they had a lot of expertise. They had a lot of parts on quick notice and they did a fantastic job. And by the end of the season, all seven machines were operational.

Q. When you say the end of the season, what do you mean?

A. You know, like when we're getting into August.

Q. So --

A. The peak loads in the building were at the end of the summer. When you get to the dog days of August and early September is when the high humidity, high temperature days would demand, have the most demand for cooling.

And as I had said, each one of the machines was rated at 7,000 tons which gives us a total of 49,000 tons of refrigeration capacity. And the calculated load, calculated maximum average load would be about 21,000 tons.

Q. So am I understanding you correctly that the repair to the chiller unit was completed in August?

MR. STICKELMAN: Objection to the form.

A. Round about. I can't, you know, I may be off by days or weeks, but that's as I recall.

Q. Was there a main control panel from which you could operate all of the chillers, all seven?

A. No. Each chiller had its independent control panel.

Q. So each chiller was able to operate --

A. It was a stand-alone unit.

Q. So when you repaired, when you repaired machines 4 and 5, which I believe you indicated had to be repaired?

A. I think 1, 4 and 5, all this repair was going on simultaneously. It didn't go from machine to machine. We had a group of people in there working on all machines at the same time.

Q. So those chillers were operational in April or May?

A. I'm guessing. I could be wrong.

Q. I understand.

A. But as I recall it. Let me say that

we built the refrigeration plant on the street to cool the complex and we never used it because we were able to operate the main chiller plant to cool the entire complex throughout that entire summer.

So when I said that the peak demand was 21,000 tons, and I'm telling you that we, throughout that season, that cooling season, we always had available 21,000 tons of refrigeration, which would be three machines.

Q. Okay. Am I understanding you correctly that none of the machines was operational before the time you're estimating, in approximately late April or May?

MR. STICKELMAN: Objection to the form.

A. As I remember it, and it's been a while, but yes.

Q. Were these chillers designated to serve particular areas of the complex, or was each chiller able to serve the complex as a whole?

A. As we had just spoken briefly, as you went down the center of the room, north to

south, chillers 1, 2, 3, 4 would serve all areas below the 41st floor and chillers 5, 6, 7 would serve all of those areas above the 41st floor.

Q. For both towers?

A. Yes. Any chiller in its zone was interchangeable. So 1, 2, 3 and 4, 1 would do the job of 2 would do the job of 3 would do the job of 4. And on the other side, 5, 6 and 7, with some caveats.

There were special -- machine number 7 was a special dual evaporator machine. It was built to serve both the high and the low zones. It was a special arrangement where instead of just a single evaporator like this, all right, you had an additional evaporator, which would serve the low zone.

Q. So chiller 7 was effectively able to serve the entire complex?

A. That's correct. At periods of low load, chiller number 7 could handle the entire complex by itself. And then also chiller 4 and 5 had dual drive lines which means that they had two compressors; chiller 4 had two compressors and chiller 5 had two compressors.

Much as we have the same arrangement here, where we have evaporators side by side, what we have here is compressors side by side, one a 7,000 ton capacity and one a 2500 ton capacity. So that when you had a low load condition, you could economize by running the smaller compressor. When you didn't have a 7,000 ton demand, let's say you had a 2,000 ton demand, you would put on the smaller compressor and save money.

Q. So again, chillers 4 and 5 were designed so that when that low load situation occurred, those chillers could serve the entire complex?

MR. STICKELMAN: Objection to form.

A. In their own zone. Chiller 4 would be low zone; chiller 5 would be high zone; and as we said, chiller 7 would be both zones. So you had a lot of flexibility in deciding which equipment to run to serve the particular zone, either high or low.

But all low zone chillers would service the same equipment, and all high zone chillers would service its own distinct set of

equipment.

Q. Do you know how much it cost to carry out the repairs to the refrigeration equipment?

MR. STICKELMAN: Only if you know.

A. Approximately $7 million.

Q. And that $7 million was spent on the refrigeration equipment only, am I understanding you correctly?

A. Correct. That does not involve anything with the structure, the ceilings, the walls, lighting, cranes that were rebuilt. This equipment was very large and there were cranes in the ceiling to be able to take it apart. It doesn't include that. Work platforms to be able to stand on the equipment and do that.

$7 million was just for the chillers themselves. A lot more money was spent in that room, but just for the chillers themselves, 7 million.

Q. Did that 7 million include labor costs?

A. Yes. It was primarily labor.

Q. Do you know how much money it took to repair all of the damage caused to the property

of the World Trade Center complex as a result of the 1993 bombing?

A. No.

Q. Do you know how much money was spent in that room, as you described it?

A. No.

Q. Do you have any more information about the costs it took to make any repairs as a result of the 1993 bombing?

A. As a private citizen I had heard some numbers, and I heard anywhere between 350 and $500 million. That's not from anything that anybody in the Port Authority told me; this is just from reading the papers.

Q. Do you have any other information about the kind of damage that was caused -- strike that.

You mentioned smoke damage that was caused as a result of the 1993 bombing. Can you tell me what you know about that kind of damage?

A. When the bomb went off, it breached a lot of the elevator shafts at the lower levels, and which were CMU walls, concrete masonry unit walls, and that allowed smoke from the fires in

the subgrade to go up the elevator shafts like chimneys. And there was smoke on a lot of the floors.

Q. In both towers?

A. Everywhere, everywhere. And there was, you know, if you went into your office following the bombing, there would be soot on the walls, the furniture, the desks, the papers, everything.

Q. Do you know how much time it took to repair the smoke damage?

MR. STICKELMAN: If you know.

A. It took about three weeks, I believe, to clean up -- they brought in armies of people, cleaners, and worked around the clock. And I believe we had tenants back in about three weeks in Tower 1.

Q. Do you know how much money that cost?

A. I do not.

Q. Do you know how long it took to repair the totality of the damage caused by the 1993 bombing?

MR. CHEUNG: Objection, asked and answered.

A. Let me just say -- let me just say that as of 2001, there were still things that were damaged, not badly damaged, but I mean stuff that probably would have been repaired in the future, cracked walls.

Q. Anything else?

A. You know, doors here and there that had been sprung or busted, you know, things that were not necessarily to secure things, but you know these were things that were still in the process of repair.

Q. I understand. Anything else specifically you can remember?

A. No.

Q. Do you know if there was a fire at the World Trade Center as a result of the 1993 bombing?

A. There were a lot of fires.

Q. Do you know how long they lasted?

A. I do not.

Q. Do you know if there was damage to the fire protection system as a result of the 1993 bombing?

MR. STICKELMAN: Objection, lack of

foundation.

A. No, I don't.

Q. Do you know if there was -- forgive me if this is repetitive. Do you know if there was damage to the sprinkler system as a result of the 1993 bombing?

A. In certain areas, yes.

Q. Can you describe what you know about that damage?

A. Where the floors collapsed, in the vicinity of the bomb crater, of course when that concrete and steel came down, the sprinkler pipes that were tied into that came down with it. But those were small diameter lines.

Q. What did you -- sorry. Do you know what was done to control that damage immediately after the bombing?

MR. STICKELMAN: Objection to the form of the question.

A. No.

Q. Do you know if the sectionalizing valves were accessed as part of the repair to that sprinkler system?

A. I don't know.

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(Discussion off the record.)

MS. GIFFIN: I think we are at a good point for lunch. Can we make it a very short lunch? I'd like it as short as we can do it, so let's keep it under a half hour so we can get out of here as efficiently as possible.

THE VIDEOGRAPHER: The time is 12:28 p.m. and we're going off the record.

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A F T E R N O O N  S E S S I O N

(Time noted: 1:00 p.m.)

D E N N I S  M A L O P O L S K I,

resumed and testified as follows:

EXAMINATION (Cont'd.)

BY MS. GIFFIN:

THE VIDEOGRAPHER: We're now going on the record. The time is 1:02 p.m.

Q. Mr. Malopolski, I have just a few follow-up questions from this morning. We were talking about, at one point, we were talking about your responsibilities in the time from 1993 until approximately two years before the lease.

And you had said that you were responsible for coordinating with the Fire Department of New York regarding whether or not sectionalizing valves would need to be accessed, is that correct?

MR. STICKELMAN: Objection, mischaracterizes his prior testimony.

A. I don't recall stating that. Before we go on, can I just interject something?

Q. Sure.

A. When we spoke before about how long the repair to the refrigeration plant took, I don't know for sure, but as I think about it, I think I was too optimistic in when it was all finished.

So it probably took a lot longer, in terms of maybe a month or two or three; I'm not sure. Without my daily calendar, I really can't say. But I said it was all done by that summer and I believe I misspoke, but I can't tell you when.

Q. So some of the work continued on into the fall?

A. Yes.

Q. And can you give me any sort of estimate about --

A. I wish I could. I wish I could, but I can't. I have just a personal thing with dates and time span. I write everything down in a date book, and without that, I don't know. I really don't know.

Q. Was that date book destroyed on September 11th?

A. Yes, yes.

Q. Thank you for clarifying.

A. So the actual dates were probably recorded somewhere, and that could probably be found, but I can't tell you. So I'm sorry.

Q. No, that's fine. Thank you for clarifying that. I appreciate it.

Returning back to the question I had started to ask, am I correct that during this time period, 1993 until two years prior to the net lease, did you have responsibility for coordinating with the Fire Department of New York in connection with a fire?

MR. STICKELMAN: Objection.

A. From a mechanical standpoint, yes.

Q. And did you have responsibility for coordinating with the Fire Department of New York specifically as to the sectionalizing valves?

A. If they would have asked for it to be shut off, then yes, I would have been involved.

MR. CHEUNG: Objection to the form.

Q. You would not have shut off sectionalizing valves without consulting with the Fire Department of New York, correct?

A. Correct.

MR. CHEUNG: Objection to form.

Q. And you would do so at their direction, correct?

A. That's correct.

Q. You said that during the same time period, it was your responsibility in case of a fire to go to the fire control center, correct?

A. Correct.

Q. Which one?

A. It depended where the incident would be.

Q. So --

A. As I said, there were four different ones, so if the incident was in 5 World Trade Center, 5 World Trade Center would be where we would report; or 4, 4; 1, 1; 2, 2.

Q. You mentioned there was someone who was fire safety director?

A. Yes.

Q. Was it also his or her responsibility to go to that same fire command center?

MR. CHEUNG: Objection.

A. I don't know what his responsibilities

were.

Q. Mr. Malopolski, were you personally involved with the decision to lease the World Trade Center to the Silverstein entities?

A. No.

Q. Am I correct that you had no involvement in the property insurance placement with regard to the World Trade Center after the net lease?

A. That's correct.

Q. And am I correct that you've never personally had any communications with or about Industrial Risk Insurers with respect to the World Trade Center?

A. That's correct.

Q. And you've never -- am I also correct that you have not had any communications with any specific insurance company with respect to the World Trade Center property placement?

A. Only in the parts that we talked about, where I was giving information to Mr. Hickey who I believe was a representative of groups of insurers or underwriters. That was my total involvement as far as insurance matters

were concerned.

Q. Aside from Mr. Hickey, you didn't provide information to insurance companies?

A. There were other people that Mr. Hickey brought from time to time.

Q. Do you remember who those people were?

A. I'm sorry, I don't.

Q. Now, we talked at your last deposition about the drawings that you provided to Mr. Hickey, and we talked some more about those today.

Aside from those drawings, did you provide other kinds of information to Mr. Hickey?

MR. STICKELMAN: Objection, asked and answered.

A. I provided him with everything he asked for. And I really don't have a comprehensive list in my mind of all that stuff, but whatever he wanted, that's what I gave him. But primarily it was concerning, you know, the stuff that we talked about here.

Q. Sitting here today, can you remember

anything else that you provided to Mr. Hickey, aside from what we've talked about either today or in your prior deposition?

A. I'm not sure whether I gave him -- at this time, we were transferring a lot of documents about a lot of information to a lot of people, and I don't know whether he got a roster of routines, which would be the maintenance procedures that were performed by the mechanical group, or not.

I know that I gave rosters of routines to more than one person, and whether one of those people was Mr. Hickey, I'm not really sure.

Q. Can you tell me a little bit more about what a roster of routines is?

A. In order to track maintenance and perform it in an organized fashion, there's a book which lists what is supposed to be done to what equipment, with what frequency. And that is all written down as a roster of routines. And from that roster of routines, we generate work orders and we perform preventive and preemptive maintenance.

Also, you know, things that have to be done according to code, according to manufacturers' recommendations, in a periodic fashion would be listed so that we wouldn't miss it. You know, if something had to be done every month, this roster of routines would pop up with a work order.

It was a computerized list and it would say, okay, it's September 1st, you have to do this; and then October 1st, you have to do it again; and November 1st, you have to do it again. So this would be a tool to perform maintenance on all the equipment in the complex.

Q. And who created the roster of routines?

A. That would be the Port Authority engineering department.

Q. Was that something that fell into your area of responsibility?

A. I was -- no, I didn't create it. I would use it as a tool. It would be given to me and I would use it in order to assure that maintenance was performed in a correct manner, in a timely manner.

Q. Did that roster of routines exist in hard copy as well as this computer form?

A. Yes.

Q. In what format was it in hard copy?

A. It would be like a fan-fold, you know, someone would hit a button on a computer and it would print the whole thing out in one long sheet, you know, the green and white bar stuff that fan-folded, so you would have that all there and it would be in a binder.

Q. Where was that binder kept?

A. In a whole lot of places, in the contractor's office, in my office. Alan Reiss probably had a copy. It was everywhere that anybody would want to see it. It was probably in the building service office, you know, where they took calls for complaints and whatnot. So it was widely distributed.

Q. Do you know if that roster of routines was maintained after the lease?

A. I don't know.

Q. Do you know if a copy of that roster of routines, as it existed on July 24th, 2001, still exists?

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A. I don't know.

RQ MS. GIFFIN: Let me put a request on the record to the extent that that document does still exist, we would like to see it.

MR. STICKELMAN: Your request is under advertisement. I think I know it's --

Q. Did that roster list off maintenance that had to be performed throughout the entire World Trade Center complex?

A. Yes. It would list all of the mechanical equipment in the complex.

Q. Would it also list structural repairs that were necessary, if any, on a regular basis?

A. Not in my roster. There would be a separate roster for that, and there would also be a separate roster for electrical.

Q. Anything else besides mechanical, electrical and structural that a roster of routines would be produced for?

A. Beyond that, I don't know.

RQ MS. GIFFIN: We would request copies of any of those that exist.

Q. Sitting here today, do you remember any other documents that you provided to John

Hickey?

A. None that I can think of.

Q. Did you have direct communications with Mr. Hickey? That is, did you talk to him either in person or on the telephone?

A. Yes.

Q. Was there any information that you can recall imparting to him outside of the information that we've already discussed?

A. We walked around frequently. We would spend entire days, maybe several days in a week, you know, roaming about the Trade Center. And of course, we'd talk like people talk.

Q. In the course of those discussions, did Mr. Hickey discuss with you anything regarding property insurance for the World Trade Center?

A. No. It would be more of a small talk nature about, you know, what the kids were up to, and who went to school where, that type of thing, you know, normal, friendly discourse.

Q. Were you aware that Mr. Hickey was gathering information about the World Trade Center in connection with the property insurance

program?

A. Yes.

Q. In the course of your communication, did you ever discuss the kinds of risks at the World Trade Center site Mr. Hickey might have been concerned with?

MR. STICKELMAN: Objection to form.

MR. CHEUNG: Objection.

A. Yes.

Q. Can you tell me about that, please?

A. We had discussed several times, you know, the possibility of a terrorist attack.

Q. And what exactly did you discuss?

A. Of course we discussed 1993. And we discussed things that we had done following the first bombing to improve our situation, regarding, you know, protection against another attack.

Q. Was Mr. Hickey concerned about the possibility of a future terrorist attack at the World Trade Center?

MR. CHEUNG: Objection to form.

MR. STICKELMAN: Objection to form.

A. I don't know. We never discussed it.

I don't know what he thought.

Q. You discussed the possibility of a terrorist attack?

A. Oh, sure.

Q. Did Mr. Hickey indicate to you that insurance companies would be concerned about that possibility?

A. I would imagine that we did talk about that.

Q. And did he request information from you with regard to the 1993 bombing in connection with that concern?

A. I don't recall.

MR. CHEUNG: Objection.

A. I don't recall that we transmitted any documents. I think it was more on just a, you know, boy, this happened once, you know, gee, it could happen again, and what's happened in between.

Q. You said that you talked with him about the things you've done to improve the situation, correct?

A. Yes.

MR. STICKELMAN: Objection.

Q. Can you tell me what you told him?

A. Oh, sure. I told him that, you know, since that time, we put in the -- and of course, as we walked around, we would see some of these things, like emergency lighting in stairs that was battery powered, photoluminescent paint on signs and stairs that would glow in the dark, if we were in total darkness.

You know, ring the perimeter with concrete barriers to prevent anyone from driving a bomb right up into the building, that sort of thing. The fact that, you know, just the fact that it was, for him to get into the place, he had to call me first and I had to meet him and then take him to the desk and sign him in, that type of thing.

The new security stuff. The turnstiles that we put in so that only people with the proper identification could access, you know, the nonpublic areas. The fact that, you know, all deliveries were searched and every truck driver that came in had to have a bill of lading and have his drivers license and his face photographed, and that type of thing. You know,

the pop-up barriers that we put at all the ramps to the subgrade to prevent someone from driving a bomb in at high speed; that type of thing.

Q. Did you provide a document in connection with that?

A. No.

Q. Did Mr. Hickey request information from you about the damage that was caused to the World Trade Center as a result of the 1993 bombing?

A. I don't recall.

Q. Did Mr. Hickey --

A. Documentation. I don't know whether we talked about it, but I know that I didn't give him any particulars about, you know, as far as documentation, you know, how much repairs cost and what the repairs were. No. If it did come up, it was just in conversation.

Q. So did you ever describe for him the kind of damage that was caused?

A. I don't recall.

Q. Did you ever describe for him the time it took to repair the building?

A. I don't believe so. It wasn't

discussion in depth.

Q. Can you recall any other conversations, communications you had with Mr. Hickey about risks he was concerned about at the World Trade Center?

A. No.

Q. Can you recall any other subjects that you discussed with Mr. Hickey at that time with regard to the World Trade Center?

MR. CHEUNG: Objection.

MR. STICKELMAN: Objection to form.

A. In what context? You know, we talked about what I said we talked about, and we made small talk. But beyond that, what do you mean?

Q. I'm just trying to determine if there's anything else you can remember besides what we've already discussed?

A. No.

Q. I might have asked you this before, but just so I'm clear, do you recall providing that kind of information to anyone else besides Mr. Hickey in connection with the lease of the World Trade Center?

MR. CHEUNG: Objection to form.

A. What kind of information?

Q. Any of the subjects that we discussed, the drawings or discussions about terrorism, any of that?

MR. CHEUNG: Objection to form.

A. With Charles Magee, with Chi Chu. That's pretty much the contacts that I had with the Silverstein organization.

Q. Did you have conversations with Chi Chu about the risk of terrorism at the World Trade Center?

A. No.

Q. And Mr. Magee, is he with Silverstein or is he --

A. He was with Silverstein. He died in the attack.

Q. Did you have communications with him about the risk of terrorism at the World Trade Center?

A. No.

Q. Was there any information you provided to either Mr. Magee or Mr. Chu, aside from that which you have already described having provided to Mr. Hickey?

A. No. The thrust with Chi Chu and Charles Magee was of an entirely different nature. It was more about the day-to-day operations of the facility, and it would be more on a, to tap my expertise in the mechanical vein.

Q. And in the course of those conversations or communications, did you come to any understanding of how the Silverstein entities intended to operate the buildings day-to-day?

MR. CHEUNG: Objection to form.

MR. STICKELMAN: Objection.

A. No.

Q. Are you familiar with a document called the reciprocal easement and operating agreement?

A. No.

MS. GIFFIN: Let me introduce as the next exhibit a document Bates stamped PORT/SRI 070012.

(Malopolski Exhibit 47, document bearing Bates Nos. PORT/SRI 070012, marked for identification, as of this date.)

Q. And let me know when you've had a chance to look at that?

A. Okay.

Q. Have you seen this document before, sir?

A. I believe so. It was an email, and the distribution list is to all World Trade Department. And I kind of remember seeing it.

Q. Were you a part of the World Trade Department on July 22nd, 2001?

A. Yes.

Q. And that's the date of this email, correct?

A. That's correct.

Q. And it's an email from Alan Reiss, correct?

A. That's correct.

Q. Do you have any reason to believe you didn't receive this email on or about July 22nd, 2001?

A. No.

Q. I'd like to draw your attention to about the middle of the second paragraph. There's a sentence that starts with "It is not

there yet though. Saturday night I read 285 pages of the latest draft reciprocal easement and operating agreement." Do you see that sentence?

A. Yes, I do.

Q. Does reading that sentence refresh your recollection as to what the reciprocal easement and operating agreement was?

A. I can make inferences, but I have never seen the document and I don't know what it is, but from the title I can surmise what it is.

Q. Mr. Reiss appears to be discussing this document with everyone on the World Trade Department distribution list?

A. Yes.

Q. Do you recall having any other communications with Mr. Reiss about the reciprocal easement and operating agreement?

MR. STICKELMAN: Objection to form.

MR. CHEUNG: Objection to form.

A. No. See, Alan is a very detail oriented person and, you know, he would refer to this document. To me, it's a legal term, and 99 percent of us wouldn't see it or know what the

reciprocal easement and operating agreement was, other than the fact that it was a document transferring the, you know, the ownership of the property.

MR. STICKELMAN: If you don't know what the REOA is --

A. I don't know what it is, but I'm not a dummy and you know, I could kind of --

Q. That much is clear.

A. So I can kind of figure it out, but I don't know anything about it.

Q. Okay. The last sentence of this paragraph states, "It is what will govern how the complex is operated for the next 99 years as one integrated facility, and defines the business relationship between everyone for operating and capital expenditures, and what will happen if there is a casualty." Do you see that sentence?

A. I do.

Q. Have I read that correctly?

A. Yes.

Q. Did you have an understanding that the World Trade Center complex was to be leased

to the -- strike that, to the Silverstein parties and operated as one integrated facility?

MR. STICKELMAN: Objection to form.

A. That's what I believe.

MS. GIFFIN: Let me introduce as the next exhibit a document Bates stamped SILV 32-002640, with two pages following it that are Bates stamped SILV 32-003003, to 003004.

(Malopolski Exhibit 48, document bearing Bates Nos. SILV 32-002640, 003003 and 003004, marked for identification, as of this date.)

Q. Do you have that document, sir? Let me represent to your counsel that this represents an excerpt of the reciprocal easement and operating agreement, and I'm going to ask you questions not about the cover page but about the pages in there.

So when you've had a chance to review that, let me know.

MS. GIFFIN: 48.

MR. STICKELMAN: Yes, 48.

A. Okay.

Q. Let me just briefly go back on what I

said. Does looking at the first page of this document refresh your recollection in any way as to what the reciprocal easement and operating agreement was?

A. I have never seen it. And the only knowledge I have of it is being referred to in this first email, Exhibit 47.

Q. Thank you. Referring now to the second two pages of Exhibit 48, have you seen these two pages before?

A. No.

Q. This appears to be a list of common building systems, correct?

A. Yes.

MR. CHEUNG: Objection to the form.

Q. Having reviewed this list, is it your understanding that these are in fact common building systems to the World Trade Center complex?

A. Yes.

MR. STICKELMAN: Objection to the form.

MR. CHEUNG: Object to the form.

Q. Number 2 on this list refers to "HSQ

building control system," and then states, "This is a centralized monitoring/control system installed at the operations command center." Do you see that?

A. Yes.

Q. Do you have an understanding of what is being referred to by HSQ building control system?

A. Yes.

MR. CHEUNG: Objection to form.

Q. Can you tell me about that, please?

A. HSQ is the name of a contractor that provided the system, and it was a software-based monitoring system which was tied in with various sensors throughout the property to monitor the points that are referred to further down in the paragraph, and to give information back to a central point or to any points which were permitted access to this loop.

Q. So this system was gathering information on the World Trade Center complex and reporting it back to the operation command center?

A. Yes.

Q. And this is characterized as a common building system?

MR. CHEUNG: Objection to form.

A. Yes.

Q. Similarly, number 4 refers to the subterranean river water pump station as a common building system?

A. Yes.

Q. Is that an accurate description of that river water pump station?

A. Yes.

MR. CHEUNG: Objection to form.

Q. And similarly, the condenser water systems are referred to as common building systems?

(Discussion off the record.)

Q. And similarly, the condenser water systems are listed as common building systems, correct?

A. Correct.

Q. And that's an accurate description of where they were located prior to September 11th?

A. It's a very sketchy description. The system was extensive; it went throughout the

entire complex. So to say that the condenser water system is located on the B3 and B4 levels does not capture the entire scope of that system.

Q. Do you know what part of the condenser water system was located on the B3 and B4 level?

A. Yes.

Q. What part?

A. The main heat exchange portion was located on the B3 and B4 level. The river water from the Hudson River that was pumped by the river water pump station was at that location exchanged with water that was circulated throughout the complex, which was sold to tenants to cool their individual refrigeration compressors that they may have installed for computer rooms or conference rooms.

Q. Similarly, the domestic water system is referred to as a common building system, correct?

A. Yes.

Q. And is that an accurate description of that common system?

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MR. CHEUNG: Objection to form.

A. Yes. These are all very brief descriptions of the systems. They, of course, are very extensive, but I guess what they're trying to get through here is just the portion that could not be broken out into a different property.

Q. And that's true of all the 20 items on this two-page document, correct?

A. Yes.

Q. If you could turn to the second page, item number 14, the chilled water plants, is that the refrigeration plant that we've discussed here today?

A. Yes. The one that we discussed so far was a chilled water plant on B5. It also refers to the smaller and distinct refrigeration plant on B6.

Q. Can you tell me what was the function of that refrigeration plant on B6?

A. That refrigeration plant was installed in 1993. It was conceived of to be an auxiliary plant for wintertime operation. We had increased the power levels of the World

Trade Center. We were doing an electrical upgrade; we were taking the available power from 4 watts a square foot to 10 watts a square foot.

And that increase in power would necessitate an increase in cooling capacity because that kind of power would generate heat which would need to be rejected. And that kind of heat load would require air conditioning 365 days a year, which the old design at 4 watts a square foot did not require. I don't know if that's clear or not.

Q. Were both of these chiller plants operated at the same time?

A. Sometimes.

Q. The ones on B5 and B6?

A. Right, but mostly it would either be one or the other. There would be maintenance that would need to be performed in the large refrigeration plant, and that would take place in the winter while the B6 plant ran. And then conversely in the summertime, when the B5 refrigeration plant ran, maintenance would be performed on the smaller B6 plant. So there would always be one available.

Q. Can you refer to Exhibit 46, please, which we discussed earlier. This is the exhibit on which you drew the refrigeration plant at my request.

A. No.

(Discussion off the record.)

Q. I'm sorry, that was the emergency generator?

A. This was the emergency generator.

Q. Sorry. Okay, if you look at Exhibit 34, page 194763. Do you have that?

A. Yes.

Q. We discussed this refrigeration room earlier today, correct?

A. Yes.

Q. Which one is that?

A. This is the B5 refrigeration plant or what we refer to as the big refrigeration plant or the original refrigeration plant or the main refrigeration plant.

Q. Okay. If you look at 194764, is the B6 refrigeration plant located on this drawing?

A. No.

Q. Do you understand that this Figure

10.25 on this page to be a representation of the B6 level?

A. Yes.

Q. Is the reason it is not represented on this drawing because this drawing was created before 1993?

A. Correct.

Q. Can you indicate for me on that drawing where that refrigeration plant was as of September 11th, 2001?

A. Yes.

Q. If you would do so.

A. (Witness complying.)

Q. Thank you. We talked at your last day of deposition about another email from Alan Reiss, which is Exhibit 5, which listed interconnected systems at the World Trade Center complex. And I believe your counsel has put that exhibit in front of you now. Do you recall that exhibit?

A. Yes.

Q. Do you recall that conversation?

A. Yes.

Q. Exhibit B to the reciprocal easement

and operating agreement appears to be a similar list of interconnected systems at the complex. Does that appear to be a fair characterization of the second two pages of Exhibit 48?

MR. CHEUNG: Objection to the form.

A. Let's say that items on Exhibit 5 are also included on Exhibit 48, but there are items in Exhibit 48 which are not included on Exhibit 5. So there's an extraction of some of these items to here.

Q. When we were talking about Exhibit 5 last time, you mentioned that the complex was designed with a central plan in mind. I'm wondering, could you tell me what you mean by a central plan?

A. A central plant, plant. From my perspective, when we're talking about heating and cooling, the refrigeration plant served all the buildings, and the steam plant served all the buildings.

And if you were going to build separate properties, you know, if building 1 was a separate property and building 2 was another property and 4 a property and 5 a property, with

different owners and different operators, you would have a refrigeration plant and a steam plant in each property.

But when the complex was built, it was built as one property. So there was not that individualization where you could easily say, you know, this is a refrigeration plant for one.

Q. So when you testified last month about the Port Authority for some period of time attempting to run the building as separate buildings, these common systems were not physically altered in any way, were they?

A. The Port Authority didn't try to run them as different buildings; they tried to manage them as separate properties. But no, no alterations were made to the systems to reflect that.

And I think that Alan Reiss talks about that in Exhibit 5. In the first paragraph, under "Utility Operating and Demark Points," he says, "The more I thought about it last night, the more I realized that it is an operational nightmare, not just to segregate and

meter different utility feeds, but also to operate the systems as separate buildings without possibly impacting" ...

Q. Do you recall what activity took place on July 24th, 2001 in connection with the transition to the Silverstein entities?

A. We had a ceremony out on the plaza. We had both governors and Larry Silverstein and a guy from Westfield and some other politicians and they handed Larry a big set of wooden keys.

Q. In preparation for that transition, were there particular activities associated with your job responsibilities that took place?

A. Well, it was around that time that I was taken from the project management group at the construction management division and returned back to the, I'll call it plant and structures concentration, although it wasn't called that at the time. And that I was put on the transition team.

MR. STICKELMAN: Are you going on to a new topic?

MS. GIFFIN: Yes.

MR. STICKELMAN: I'm going to make a

phone call and see if --

MS. GIFFIN: We'll take a brief break and get this difficulty that we're having with finding coverage to defend Mr. Malopolski off the record.

THE VIDEOGRAPHER: We're now going off the record. The time is 1:45 p.m.

(Recess taken.)

THE VIDEOGRAPHER: We're now going on the record. The time is 2:03 p.m. This is the end of the tape labeled 2 of the videotaped deposition. We're now going off the record at 2:03 p.m.

(Pause in the proceedings.)

THE VIDEOGRAPHER: This is the tape labeled number 3 of volume II of the videotaped deposition of Dennis Malopolski. We're now going on the record. The time is 2:06 p.m.

MS. GIFFIN: I'd like to introduce the next exhibit in sequence, a document Bates stamped PORT/SRI 162181.

(Malopolski Exhibit 49, document bearing Bates No. PORT/SRI 162181, marked

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for identification, as of this date.)

BY MS. GIFFIN.

Q. Let me know when you've had a chance to review that, please.

A. Okay.

Q. Have you seen this document before, sir?

A. Yes.

Q. Is it fair to characterize it as a string of emails, correct?

A. Yes.

Q. Did you receive each of the emails represented on this page?

MR. REYNOLDS: Just for clarification, you're asking did he receive them individually or did he receive them as a string?

MS. GIFFIN: Either one, really.

A. Yes.

Q. You're the author of one of these, correct?

A. Yes, although I'm not the one known as unknown.

Q. Can you -- these emails all seem to

have been exchanged on July 24th and 25th, 2001, correct?

A. Yes.

Q. And you would have either received or written them on or around those dates, correct?

A. Correct.

Q. Can you describe for me the subject matter of these emails?

A. Well, at the closing, it's customary that you check all the, you know, how much fuel oil is in the tank, what the electric meter reads, so that's what we're doing here, reading all the utility meters to get a point where the Port Authority responsibility stops and Silverstein Properties begins.

Q. Was the electricity for the World Trade Center billed on a single bill?

A. I don't know.

Q. Was it billed on a single meter?

A. No.

Q. When you went to check the meters for the electric, what did you do physically? Where did you go and what did you do?

A. We went to the meters and we read the

display and recorded them.

Q. And where were those meters?

A. I don't recall.

Q. How many were there?

A. To the best of my recollection, I think there were five. I don't know.

Q. Were the meters allocated as to particular portions of the complex?

MR. REYNOLDS: Objection to the form.

A. Electricity is out of my bailiwick, but I believe that the meters were on different electric feeds to the complex.

Q. I'm not sure I understand what you mean by different electric feeds.

A. We had a substation underneath 7 World Trade Center, a Con Ed substation, and there were certain large cables called feeders. And a group of these feeders came into the building and went into the substation.

And they were broken down from that point into the various different substations, but at the point where they hit the first substation is where they were metered.

Q. But all of these meters came off the

Con Ed feeder, is that correct?

MR. REYNOLDS: Objection to the characterization of the testimony.

A. They came off the point where they went from Con Ed to World Trade. And that's where the meter would be. It would measure all power coming into the complex.

Q. And that was for electricity. Where did you go to read the steam meters, if there was such a thing, or if it was different?

A. Yes.

MR. REYNOLDS: Object to the form.

A. We went to the steam meter room.

Q. Which was where?

A. In the B6 level near the refrigeration plant.

Q. How many meters for steam did you read?

A. Five.

Q. And those were all at the B6 level?

A. Yes, they were all at the location known as the meter room.

Q. Were those meters allocated for a particular area?

MR. REYNOLDS: Object to the form.

A. Yes, they were common. They measured all of the steam that came into the complex.

Q. What about water, where did you go to read water meters?

A. We went to each one of the locations that was metered and read the meters. I believe there were four locations.

Q. Do you recall where those were?

A. Yes.

Q. Where?

A. For the main utility rack on the B1 level, there was a meter right by the Barclay Street ramp for the north feed from Vesey Street. And there was a meter from the south end underneath Vesey Street. And there was another meter at that same location underneath Liberty Street on the south feed that fed the wine room for the Windows on the World. And there was another meter on the B1 level by the hotel.

Q. And you said those were all in the B1 level?

A. Yes.

Q. Could I direct your attention to Exhibit 34 again, page 194759. And that was 194759. Could you indicate for me on this drawing where those meters were, please?

A. Which meters?

Q. The four water meters you just described.

A. I'll just put an X.

Q. Thank you.

A. Here's one here. Two here. And one here.

MR. REYNOLDS: Dennis, for the record, can you put your initials? And just to be a stickler, put your initials by each X.

THE WITNESS: (Witness complying.)

MS. GIFFIN: Thank you, Mr. Malopolski.

MR. CHEUNG: Figure 10.20 is the B1 level?

MS. GIFFIN: We're getting there.

MR. CHEUNG: Oh, okay. I wasn't sure if there was a representation.

Q. Are you able to determine from looking

at this drawing that this is a representation of the B1 level?

A. Yes.

Q. Yes, it is?

A. Yes, it is.

MR. REYNOLDS: Can we also, just in your handwriting at the top, just say water meters, is that fair?

MS. GIFFIN: Um-hum.

THE WITNESS: (Witness complying.)

Q. Was there a particular significance to these locations? I'm trying to determine why the meters might have been placed where they were.

MR. REYNOLDS: Object to the form.

A. Because that was the point where the water was metered where it left the city system and entered the World Trade system.

Q. So each of these points was supplied by the city water system, correct?

A. Correct.

Q. Were these meters allocated to particular areas of the World Trade Center complex?

A. No.

Q. To your knowledge?

A. No. They were the gross amount of water fed to the place.

Q. Are you familiar with the term check valves?

A. Yes.

Q. What are check valves?

A. A check valve is an automatic device that will allow a fluid to flow in one direction only.

Q. Were there check valves at the water meter locations at the World Trade Center?

A. Yes.

Q. At each of those four locations?

A. At three of the four.

Q. Which one was there not?

A. The one that fed the Windows on the World wine room was a very small water meter. It was just a three-quarter inch line and did not have a check valve.

Q. Did you read the other meters in connection with the closing?

A. We read the electric, we read steam,

we read water and we also gauged the diesel supply for the emergency generators.

Q. And how did you do that?

A. We went and read the gauges on the reserve tanks.

Q. And was that at the location you discussed earlier today?

A. The one where we drew the emergency generator plant? That was one of them. And then there was another emergency generator plant in the 5 World Trade Center 285 level. That was the new one that had just been, or was in the process of being completed.

Q. It was not complete as of September 11th?

A. Well, it was substantially complete, but there was a punchlist. So let's say there were some small items still being finished up, but it was operational, yes.

Q. Do you remember which items were still being finished up?

A. No, I don't know.

Q. And would those two emergency generator systems function simultaneously or

would one back up the other?

MR. REYNOLDS: Object to the form.

A. I don't know.

Q. Was the emergency generator plant at 5 World Trade Center designed so that it could provide emergency power for the entire complex if necessary?

A. I don't know.

Q. Were there any other meter readings you took in connection with the closing?

A. I think that was it.

Q. I may have asked you this earlier, but let me ask you again so I have a clear record. Do you know whether or not these utilities were billed on a single bill?

A. I do not know.

Q. For any of those systems?

A. That's correct.

Q. The top email on this, on Exhibit 49, it is from someone named Robert Gifford. Who was that?

A. Robert Gifford was doing -- he was in our office, a World Trade person, crunching number, doing utilities.

Q. He was -- strike that. Do you know who Nancy Seliga is?

A. Yes, I do.

Q. S E L I G A. Who is she?

A. She was one of the general property managers.

Q. For?

A. 1 World Trade Center.

Q. I'm sorry, did she work for the Port Authority?

A. Yes. She was World Trade Department, Port Authority.

Q. And Carlos Dacosta, do you know whim?

A. Yes, I do.

Q. Who was that?

A. Carlos at this time, I believe that he was -- well, I know what his job was, but I don't know what his title was. I can't remember.

But he was like in what I'll refer to, because I don't know exactly what they call them anymore, the plant and structures group. He was second in command, assistant manager, let's say.

Q. This email reads, "The account numbers I have are as follows," and then there appears to be three account numbers. The first one is preceded by the letters DEP, do you see that?

A. Yes.

Q. Do you know what DEP refers to?

A. The department of environmental protection.

Q. Do you know what this account number is meant to represent?

A. That would be the water.

Q. So this would be the account number for the water system at the World Trade Center complex?

MR. CHEUNG: Objection to form.

A. I don't know.

Q. The next entry says Con Ed, do you see that?

A. Yes, I do.

Q. Do you know what that is meant to refer to?

A. Con Edison was the supplier of steam.

Q. So do you know if this was the

billing number for the steam system at the World Trade Center?

MR. REYNOLDS: Objection.

MR. CHEUNG: Objection to form.

A. I don't know.

Q. And there's an entry that says NYPA, do you see that?

A. Yes.

Q. Do you know what that's in reference to?

A. That would refer to New York Power Authority.

Q. Do you know if this would be, if this was the account number for the power system at the World Trade Center?

MR. CHEUNG: Objection to form.

A. I do not know.

Q. Did you have an understanding of why this information was being sent to you and these other individuals at the time you received this email?

A. Which information?

Q. The information in the top email, those three numbers that we just discussed?

MR. REYNOLDS: I ask you not to speculate.

A. No.

Q. The email in the middle of the page here from Carlos Dacosta states, in part, "Alan, someone from Silverstein should notify the utility as to who will be the new account owner and provide the address for future billing." Do you see that?

A. Yes.

Q. And then the email that is immediately above that from Nancy Seliga, is that pronounced correctly?

A. Yes.

Q. Says, "Yvonne Wright from Silverstein is looking for account numbers for all the utilities," in part. Do you see that?

A. Yes.

Q. And these three account numbers are the next email in sequence, correct?

A. Correct.

Q. Are you able to understand, based on reading these emails, what those account numbers might refer to?

MR. REYNOLDS: Objection. Don't speculate.

A. Only through inference.

MR. REYNOLDS: Do not make inferences.

A. No.

MS. GIFFIN: Let me introduce as the next exhibit in sequence a document Bates stamped SILV 52-001789.

(Malopolski Exhibit 50, document bearing Bates No. SILV 52-001789, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. No.

Q. The title, rather the subject line for this document reads "Meter Readings WTC," correct?

A. Correct.

Q. And it is sent from Chi Chu to Charlie Magee, according to this document, correct?

A. Correct.

Q. If you refer back to Exhibit 49, am I

correct that you state in the email you authored here that Charlie Magee went with you to read the meter?

A. That's correct.

Q. And that would be the same Charlie Magee referred to in this memorandum?

A. The same.

Q. Is it your understanding that this document is a reflection of the information you and Mr. Magee gathered when you did the meter reading?

MR. CHEUNG: Objection.

MR. REYNOLDS: Objection.

A. That's correct, as far as I can tell.

MS. GIFFIN: The next exhibit in the series of documents is PORT/SRI 165211.

(Malopolski Exhibit 51, document bearing Bates No. PORT/SRI 165211, marked for identification, as of this date.)

Q. Let me know when you've had a chance to review that.

A. Okay.

Q. Have you seen this document before?

A. Yes.

Q. This is an email from Carlos Dacosta dated July 26, 2001, correct?

A. Correct.

Q. Did you receive this email on or about that date?

A. Yes.

Q. Can you describe the subject matter that's being described herein?

A. Carlos is letting the Silverstein management know what our -- in other words, prior to the net lease, what we required as far as prior notification for any shutdowns of these systems.

Q. Are these systems fairly characterized as what you and I discussed at your last deposition, as base building systems?

MR. REYNOLDS: Objection to characterization of prior testimony.

A. Yes.

Q. Do you know if Silverstein, the Silverstein entities, after the lease continued to provide these kinds of notifications for shutdowns for these systems?

A. Well, it wouldn't be up to

Silverstein to provide these. This would be for people that wanted to shut the system down to request of Silverstein, in other words, to ensure that there would be no interruptions and to make sure that, let's say, you had an electric service shutdown -- we had gone through some sheets, emails before that said, you know, a list of equipment, this, this, this, this will be out of service because we're doing electric shutdown at this substation.

So these notification days would allow the building management to thoroughly research the impact of a shutdown at that portion of the system, and to properly notify anyone that would be impacted and to have discourse.

You know, let's say that you were having the end-of-the-year thing and you were an accountant, an end-of-the-year summation of your business, and you know, we were going to shut you down on January 1st. So you'd say, no, you can't do that because all my computers are running and I have to have all these tallies. And there would be negotiations as to when the

shutdown would be acceptable. So that's what the time frame is concerned with.

Q. So when the Port Authority was operating the World Trade Center complex, it required contractors and tenants to provide at least this amount of notification in this list if they were going to affect these base building systems?

MR. REYNOLDS: Objection to the form.

A. Correct.

Q. And that was because the Port Authority needed at least this much time to assess the impact on the whole system?

MR. REYNOLDS: Objection to the form and objection to the characterization of the testimony.

A. To assess the impact and to contact those who would be impacted to make sure that there would be no adverse impact on them, or that it was acceptable with them.

Q. And it's important to do that because these system did affect the entire complex, correct?

MR. REYNOLDS: Objection to the form.

Objection to the characterization of prior testimony.

MR. CHEUNG: Objection.

A. It depends on what portion of the system. You could start at the very small and work back to the very large.

Q. But in order to assess what portion of the system would be affected, you needed to be able to get the information in enough time to make those kinds of decisions, correct?

A. Correct.

MS. GIFFIN: Next document is Bates stamped GMAC 002-07724 through 07730.

(Malopolski Exhibit 52, document bearing Bates Nos. GMAC 002-07724 through 07730, marked for identification, as of this date.)

Q. Have you seen this document before, sir?

A. No.

Q. You've had a chance to review it though?

A. Yes.

Q. On the second page of this document,

there's a title that says, "Schedule 12.3, Port Authority Employees Covered by Transition Services Agreement." Do you see that?

A. Yes.

Q. Do you have an understanding of what a transition services agreement is?

A. No.

MR. CHEUNG: Objection.

Q. You've had a chance to review the list of names on this document, have you not?

A. Yes.

Q. Are these people who were involved with the transition team between the Port Authority and Silverstein during the period of July 24th, 2001 to September 11th, 2001?

MR. REYNOLDS: Objection, lacks foundation. Object to the form.

A. No. Those people are included on this list, but there are others on this list that were not transition team members. You know, I -- of course, this is listed as -- like I said, I don't know what transition services means. But as I understand it --

MR. REYNOLDS: Don't speculate as to

what it means.

A. Okay, not what this means, but as I understand it, the transition team members are on this list, but all of these people are not, as I understood, the transition team.

Q. Do you know how big the transition team was, referring specifically to how many Port Authority people were on the transition team?

MR. REYNOLDS: Mr. Malopolski's understanding of transition team?

MS. GIFFIN: Yes.

A. I don't know.

Q. Was it more than 50, do you know?

A. I don't know. I only know my small part of the world.

Q. How many people from your small part of the world were on the transition team?

A. Four.

Q. Who were they?

A. Myself, Herman Ret, Ernie Anemone.

Q. Can you spell that last name?

A. A N E M O N E, and Ray Simonetti.

Q. And when you say your small part of

the world, what are you referring to?

A. I'm referring to -- and I caught the title of the group now. We were called at that time operations and maintenance management. That's what I had previously referred to as the plants and structures group.

Q. And you're looking on page 07728?

A. Yes. I don't see a date on this document anywhere.

Q. I'm looking at page 07728, at the bold print that says "Operations and Maintenance Management"?

A. Yes.

Q. I don't see any of the names you just mentioned or your own name under that title there, do you?

A. No, I don't. That's why I said, I can't see a date. So I don't know what the --

Q. In the contract -- I'm sorry, I interrupted you.

A. I still see myself under tenant project management, which is the construction management division. So this has to be prior to July 24th.

Q. Next to your name, there are three columns, do you see that?

A. Yes.

Q. One is -- the first is dollar figure, the second is a percentage, and the third is also a dollar figure, is that correct?

MR. REYNOLDS: Just for clarity, to the right of his name are three columns, and there are columns to the left of his name as well.

Q. Is my characterization, description correct?

A. Correct.

Q. Can you tell me what those three columns were meant to indicate?

A. I don't know.

Q. The first dollar figure is $88,724, is that correct?

A. Yes.

Q. Was that your salary with the Port Authority prior to the lease?

A. I believe it must have been, yes.

Q. And the second dollar figure, the last column on that page, is $133,086, correct?

A. Yes.

Q. Was that the amount that you were to be paid while working for Silverstein on the transition team?

MR. REYNOLDS: Objection to the characterization.

A. I don't know.

Q. Were you offered a raise or any additional money for the services you were to provide while on the transition team?

A. Yes.

Q. Do you remember how much that was?

A. Yes.

Q. Can you tell me?

A. 7,500 in salary increase. And 5,000 cash bonus.

Q. For a total of 12,500, correct?

A. That year.

Q. How long were you to work with Silverstein as a member of the transition team?

MR. REYNOLDS: Object to the characterization.

A. That was never disclosed to me.

Q. So when you say 12,500 that year, do

you mean calendar year 2001?

A. Yes.

Q. Do you know whether all Port Authority employees who worked on the transition team were offered additional money for their work in that capacity?

A. Yes.

MR. CHEUNG: Objection to form.

Q. I'd like to refer you back to page 07726. Under the title "Security and Life Safety," do you see that?

A. Yes.

Q. Can you tell me, from the list of names underneath that title, was there anyone among those individuals who was as familiar with the sectionalizing valves that we've discussed today as you are?

MR. CHEUNG: Objection to form.

MR. REYNOLDS: Same objection.

A. What was the question again?

Q. Is there anyone among this list of people who is as familiar with the sectionalizing valves we've discussed today as you are?

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MR. REYNOLDS: Same objection.

MR. CHEUNG: Objection.

A. I don't know.

Q. Just for your reference, you'll recall earlier today that you said that you're aware of a small, of a pool of people who had as much familiarity with those valves as you did, do you recall that?

MR. CHEUNG: Objection.

MR. REYNOLDS: Objection to the form.

A. Yes.

Q. And I believe you said if you had a list of people, you might be able to determine who those were. So I'm trying to determine if this list would help you remember who some of those people might be. So with that in mind, can I refer you to page 07728?

I'm looking in particular at operations and maintenance management, duty operations, general maintenance, and central services management, which continues on to the next page, could you review these names and see if there's anyone you believe is as familiar with those valves as you are?

MR. REYNOLDS: Same objection.

A. I see one.

Q. Who is that?

A. William Hamann.

Q. And what was his position with the Port as of -- sorry, do you know what his position was as of September 11th, 2001?

A. No.

Q. Do you know what his position was as of July 24th, 2001?

A. Yes.

Q. Can you tell me what that was?

A. Of course I was no longer in that group, so I have to say, just from what I know from the outside, that he was in charge of mechanical systems in that operations and maintenance management group.

Q. Next to his name on the left, there's an indication. Can you tell me what you understand that to mean?

A. It says electrical maintenance supervisor.

MR. CHEUNG: Objection to the form.

Q. Was that his position at any point in

time?

A. No.

Q. Do you know why it was stated he was an electrical maintenance supervisor?

MR. REYNOLDS: Don't speculate.

A. No.

Q. If I could refer you to the next page and have you review any names you haven't already reviewed and tell me if there's anyone else on this page who was as familiar with these valves as you are?

MR. CHEUNG: Objection to the form.

MR. REYNOLDS: Are you asking for the entire page now, or still within the small group --

MS. GIFFIN: On the entire page.

Q. And on to the next page too, frankly.

A. Well, I see my name, so you can put me in there. And I would say probably Sen Pu Chiao.

MR. REYNOLDS: Spelled the usual way?

A. S E N, P U, C H I A O.

Q. And is that individual, is that a Ms. or Mr. Chiao?

A. Mr. Chiao.

Q. And next to Mr. Chiao's name on the left, it says engineer, correct?

A. Correct.

Q. Was he an engineer?

A. Yes.

Q. Was he an engineer with tenant design review as of July 24th, 2001?

A. Yes.

Q. Do you know if he was still in that position as of September 11th, 2001?

A. I don't know.

Q. Do you know where he was on September 11th, 2001?

A. I do not know.

Q. Do you know where Mr. Hamann was on September 11th, 2001?

A. Later in the day, he was with me. Where he started out that day -- well, we were together, we were apart, we were together.

Q. Let's go back --

A. And then we were apart again.

Q. Let me finish up the list and we'll come back to that again. Have you had a chance

to finish the list of names on 7730?

A. Yes.

Q. The last page of this document?

A. Yes.

Q. And are there any other people you would include in the list of people we were discussing?

A. No.

Q. So including yourself, there are three people on this list that have the familiarity level -- sorry, strike that.

There are two other people on this list that have the familiarity with the sectionalizing valves that you do, as to those portions of this list we have looked at, correct?

MR. REYNOLDS: Objection as to form.

A. Correct.

Q. The title, the bold print titles in this document, do you know if these refer to Port Authority divisions or groups?

MR. REYNOLDS: Object, lack of foundation. He said he's not familiar with this document.

Malopolski - Confidential

Don't speculate. You can answer if you know.

A. Yes.

Q. Prior to the lease, are you aware of whether it was the responsibility of any of the individuals on this list to report to the fire command center in the case of a fire?

A. Prior to the net lease?

Q. Yes.

A. I don't know. As I said, I was out of the group that would be reporting to the fire command center. I was in this tenant project management group and was unfamiliar with what the other group, the way they ran it at that point.

Q. I believe you told me that during the period 1993 until two years prior to the net lease, part of your job responsibilities included reporting to the fire command center in case of fire, is that correct?

MR. REYNOLDS: Mischaracterizes the prior testimony. You can answer it.

A. Yes.

Q. Was that because you were in a

supervisory position in your department?

A. Correct.

Q. Do you know, as to the groups listed on this document, were individuals in supervisory capacities in these groups also required to report to the fire command center?

MR. REYNOLDS: Objection to the form.

Q. In the same period of time, 1993 to two years prior to the net lease?

A. I don't understand the question.

Q. I'm trying to determine if there was someone who had a parallel responsibility to yours in other World Trade Center groups, that is specifically the responsibility to report to the fire command center in the case of a fire?

MR. REYNOLDS: I'll object to the characterization. Is that a question or a statement?

MS. GIFFIN: I'm trying to determine if that is true.

A. I still don't understand what you're asking.

Q. Well, for example, on page 07726, there's a listing here that says "Security and

Life Safety," do you see that?

A. Yes.

Q. Was that a group or division within the Port Authority?

A. Yes, but it was a group in the World Trade Department.

Q. Thank you. Do you know as of -- well, during the period of time, 1993 until two years prior to the net lease, do you know who was in a supervisory position within that group?

MR. CHEUNG: Objection to form.

MR. REYNOLDS: Same objection.

A. Yes.

Q. Who was that?

A. That would be Doug Karpiloff, security director, and Mike Hurley, life safety supervisor. Of course, their titles at that time would be different, but those were the two gentlemen, yes.

Q. Do you know whether those two gentlemen had responsibility similar to yours, to report to the fire command center in the case of a fire?

MR. REYNOLDS: In the period from

1993 to two years prior to the net lease?

MS. GIFFIN: Yes.

MR. REYNOLDS: Objection to the form.

MR. CHEUNG: Objection to the form.

A. You're asking me if they were required? I really don't know. They were there. Now, what their job description was and -- you see, that's a different group, a different department. So what their, what their marching orders are, I can't really say. But I will say that I saw them.

Q. You saw them where?

A. During those situations, and I would assume that that would be their duty, but to say that it was, I can't --

MR. REYNOLDS: Don't make assumptions.

Q. What situations did you see them there during?

A. The ones you described, a fire.

Q. What fires are you thinking of in particular?

A. We had fires from time to time. It was not an unusual occurrence.

Q. Can you estimate how often you had fires?

A. They would come in groups, and then there would be periods with no fires but many false alarms. And there could be some days when we would have 10 alarms and the fire department would report 10 times to false alarms. And then there would be periods where maybe we would have two or three fires over a period of three weeks. It was sporadic.

Q. And it was your job responsibility every time a fire was reported to report to the fire command center?

MR. REYNOLDS: During 1993 to --

MS. GIFFIN: During the same time period, yes.

A. An actual fire or a fire alarm?

Q. Was your responsibility different --

A. Yes.

Q. -- in those circumstances?

A. Yes.

Q. Can you describe the difference to me?

A. Well, as I had said, there would be

some days when you would have 10 false alarms and you wouldn't race everybody down to the fire command center for a false alarm. If it was an actual fire, that's when, you know, the orders took effect.

Q. How did you determine when it was an actual fire such that the orders took effect?

A. Well, there would be -- an alarm would come in and someone would be dispatched to, either someone would be dispatched or someone would be called in as an actual fire.

A lot of times you would have an incident where you would have somebody put a bag of microwave popcorn in the microwave and hit the button and walk away, and it would smoke like crazy and set off the alarms. And we would get alarms down at the desk and then send somebody by to see if it was a real fire.

Q. And they would call back and tell you if it was a real fire?

A. They would call the fire command desk.

Q. And at some point, someone would call you and say this is a real fire, you have to

come now?

A. It would be broadcast over the radio.

Q. And you've testified this happened numerous times over the course of the period of time that you had this responsibility, is that correct?

A. It happened occasionally.

Q. On those occasions when you did report to the fire command center and you testified that you saw Mr. Karpiloff and Mr. Hurley there, correct?

A. Yes.

Q. Who else did you see there?

A. A whole cast of characters. I would see Ed Strauss there.

Q. What was Mr. Strauss' position?

A. He was chief of operations.

Q. Are you aware of whether it was his job responsibility to report to the fire command center in those circumstances?

A. I don't know.

Q. Who else?

A. I would see Joe Amatuccio there.

Q. What was his position?

A. At that point, we're talking 1993 to 1999, he was in charge of vertical transportation.

Q. Are you aware whether it was part of his job responsibility to be there?

A. I don't know.

Q. Who else?

A. Herman Ret, or his predecessor, John Castaldo.

Q. And what position are you describing when you describe Mr. Ret and his predecessor?

A. Chief of electrical operations.

Q. And was it part of the job responsibilities of the chief of electrical operations to be at the fire command center in case of a fire?

A. I don't know.

Q. Who else?

A. Probably Lennie Ardizzone.

Q. And what was his position?

A. Chief of structural operations.

Q. And do you know if it was part of his job responsibilities to be there during a fire?

A. I don't know.

Q. Who else?

A. A lot of people. When there would be an actual fire, everyone would turn out to help, whether it was these people's marching orders to report there or not. And there were other people I'm certain who weren't ordered to be there who would show up to help.

Q. You've told me, I think, that the fire command center had a limited space, correct?

A. It was in a corner of the lobby. And if you saw the French brothers 911, did you see that?

Q. A while ago.

A. And you saw about maybe 3 or 400 firemen, that was the scope of the fire command center. It was not limited. Behind the desk was limited, but --

Q. I understand.

MR. REYNOLDS: The record doesn't get your gesturing with --

THE WITNESS: Okay.

A. But there was approximately an acre of space there where people could stand.

Q. During the course of the occasional fires we've been discussing, about how many people would normally turn up at the fire command center?

MR. REYNOLDS: Objection to the form.

A. It would be different from time to time, depending upon the severity of the location.

Q. Can you give me a range?

A. Five to 50.

Q. How long did it take you to get from your office to the fire command center when there was a fire?

MR. REYNOLDS: I'm going to object to the form to the extent it calls for speculation. It's hypothetical, but you can answer it.

A. It is hypothetical. It could be different every time.

Q. Can you give me a range?

A. Two minutes to 20 minutes.

Q. And what did that depend on?

A. Where my office was at the time, what fire command center I was going to, whether the

elevators were in operation or not.

Q. Were there fires in the course of your, during the same time period, 1993 to 1999, were there fires where the elevators were not operational?

A. Yes.

Q. And in that case, it would take you longer to get to the fire command center, correct?

A. Yes

Q. I'm sorry, your office was in which tower?

MR. REYNOLDS: At which point in time?

Q. Did it move between towers from 1993 and 1999?

A. I moved offices at least eight times in ten years.

Q. So if your office was in World Trade Center 1 and the fire was in World Trade Center 2, it would take you longer to get there than if the fire was in World Trade Center 1, correct?

MR. REYNOLDS: Excuse me, assuming he was in his office at the time.

Malopolski - Confidential

MS. GIFFIN: Sure.

A. Right.

Q. Am I understanding you correctly, that you don't have any specific information about who else may have had the responsibility to report to the fire command center during a fire beyond your own responsibility to do so?

MR. REYNOLDS: During the period 1993 to 1999?

MS. GIFFIN: We'll start with that.

A. That's correct.

Q. Did you have any information on that from 1999 to the time of the net lease?

A. No.

Q. Do you have any information about who was required to report to the fire command center from the period of July 24th, 2001 until September 11th, 2001?

A. No.

Q. Where were you on --

MR. REYNOLDS: Can we go off the record for one second?

THE VIDEOGRAPHER: Sure. Off the record, counselor?

Malopolski - Confidential

MS. GIFFIN: Actually, let me ask one question which may clarify how much time we have left.

Q. Let me skip forward to another subject and ask, were you involved with the cleanup of the World Trade Center site after September 11th?

A. Yes.

Q. Can you describe briefly for me the extent of your involvement?

A. I came back on several occasions to locate underground utilities, shut off valves. I was called upon to direct urban search and rescue teams in subgrade search for survivors.

MS. GIFFIN: Okay, let's stop there and go off the record.

THE VIDEOGRAPHER: We're now going off the record. The time is 3:03 p.m.

(Recess taken.)

THE VIDEOGRAPHER: We're now going on the record. The time is 3:14 p.m.

MS. GIFFIN: Mr. Reynolds, you wanted to make a statement?

MR. REYNOLDS: Yes. Just for purposes

of the record, you have asked to continue for another 45 minutes past the three o'clock time that we agreed to end.

Mr. Malopolski has agreed, I guess if you believe you can finish in 45 minutes or maybe less, Mr. Malopolski has agreed to extend the 45 minutes. However, I do need to state that we do have to stop at the 45 minute mark, which will be approximately four o'clock.

I also need to note that, in asking Mr. Malopolski about what happened on September 11th, I'm going to be asking you in a professional capacity to limit the questioning to his experience, mechanically, structurally, et cetera, but to stay away to the extent possible from personal and emotional matters, because it's not something that Mr. Malopolski is very keen to talk about.

MS. GIFFIN: I understand. And we have all due respect for the difficulty that this line of questioning will cause, and we'll do our best to avoid any subjects that

are fraught with those kinds of difficulties.

Responding to the first part of what you said, I just want to put on the record that in part, the reason for our needing to extend was because of a delay based on you and Mr. Stickelman needing to be in other places, so that there was a break. And we also started later today than we had hoped to for no one's particular fault, but those are the reasons for the extension in the time.

MR. REYNOLDS: I would like to state that in total, it probably amounted to 15 minutes of delay, both in the morning and during the transition between Mr. Stickelman and myself. However, let's go.

BY MS. GIFFIN:

Q. And Mr. Malopolski, let me reiterate that, obviously we're under time restraints, but I don't mean to be disrespectful, and if at any point you need to take a moment, please just let me know.

A. Okay.

Q. Can you tell me where you were on the morning of September 11th, 2001, please?

A. At the World Trade Center.

Q. In which building? In which building?

A. At what time?

Q. Prior to the attack?

MR. REYNOLDS: Object to the form of the question.

A. Building 2.

Q. Is that where your office was on that day?

A. Yes.

Q. Do you recall where you were when the first plane hit? Were you in your office?

A. Yes.

Q. At what point did you leave your office?

A. Shortly thereafter.

Q. Before the second plane?

A. Yes.

Q. Where did you go?

A. When I first left my office?

Q. Yes.

A. The first thing I did was I evacuated my secretary. She has a breathing problem and I knew from the 1993 incident that we might lose the ability to use the elevators, so the first thing I did was I took her out of the building because I knew she couldn't walk out.

And then I returned to my office to get my radio, keys and a flashlight, and then I went around the rest of the floor to try to evacuate everybody else.

And at that point, I was able to look out the north side of the Tower 2 and see what was going on. And I saw some horrible things. And then I was in the elevator coming down when Tower 2 was hit and we lost power. The elevator stopped and we were stranded for a little while.

And I guess we must have switched to emergency power and the elevator came to the lobby and the doors opened. And the lobby was fully engulfed in smoke and dust; you couldn't see. We had to feel our way out. And when we got to the street, went to the street side, there was still debris falling off the building.

Q. When you say the street side, which

side are you referring to?

A. Liberty Street. My elevators were closest to Liberty Street, so when we came down, I was with a bunch of elevator mechanics in the elevator. And we had to feel our way to that so we went the shortest way.

Q. So you went out to the street?

A. We went to the vestibule on Liberty Street. It was at that point, we saw stuff still falling, big pieces. And we waited until it looked pretty good and then each man took a dash for himself to try to make it across. We did.

I circled back around to the river water pump station where the mechanical staff was mustering. Our emergency plan was to meet up outside the building in the event of a disaster because in 1993 we had people trapped and we were unaware where they were.

Q. When you got to that location, who was there?

A. The contract mechanical staff was coming in in dribs and drabs, and they were calling on the radio to find out who was where,

who had gotten out of the building, who we needed to go find.

We found that the refrigeration plant had been evacuated, that the guys that were working in various jobs in the mechanical rooms had gotten out. Have you seen Artie? Have you seen Guido? Have you seen -- you know, trying to get everybody together for a head count.

Q. Was there anyone from the Fire Department of New York at that location?

A. No.

Q. Where did you go when you left that location?

A. From there, I went to New Jersey.

Q. And do you know where the other people went from that location? Do you know if they stayed at that site or if they left the site?

A. At that point when we were at the river water pump station, we were upstairs on the street level and Tower 2 collapsed. So some of us went down into the pump station subterranean space and other people went in different directions.

So out of all the people that were there, I guess maybe a dozen went down in the pump station and we waited down there. We secured the pump station, shut off the sluice gates to prevent any water from flowing anymore. We shut the systems down and waited.

And then when it finally looked like some daylight outside, we sent someone up to look. And the area was -- there was nobody around. It was totally desolate, covered with ash about ankle deep.

And then we went to the Hudson River and climbed over the fence onto a police boat. And there was a water taxi tied to that and we got in the taxi. And we went down to the south cove and we helped load a bunch of civilians on and passed out the life jackets.

And then as the boat was pulling away from the dock, Tower 1 collapsed. And the boat took us to Liberty State Park.

Q. Can you estimate for me the amount of time it took for you to get from your office when you returned -- you had taken your secretary down and then you returned to your

office. Can you estimate how long it took you to get from your office to that gathering point that you described?

A. It's a strange thing, but that day, I have no concept of time. I mean I must have looked at my watch 100 times and I never saw the time. And it seems very elastic; it seemed like the day went on for a year.

Q. When you went down into the subterranean level area, was that after the collapse of Tower 2?

A. That's why we went down there, to escape the dust cloud.

Q. And tell me again exactly where you were located when you went down into the subterranean level?

A. At the river water pump station.

Q. Which was where?

A. At the end of Liberty Street.

Q. On which level?

A. Street level.

Q. I'm sorry, I'm confused. I thought you were talking about when you went to the subterranean level, am I misunderstanding you?

A. There's a park and a plaza above the station. That's where we were meeting. And when the building fell, we went downstairs. There's a flight of stairs and the pump station is immediately below that park, so it's underneath the concrete deck.

Q. And you said you shut off the pump station?

A. Right.

Q. What effect would that have had on the system?

A. That would stop the water, the river water from flowing into the building. We shut the sluice gates. The pumps were off already.

Q. Why were the pumps off?

A. Once Tower 2 fell, it severed all the electric feeds out to there. There was no more power. It was darkness. You know, everything was, you know, everything tripped out.

Q. You mentioned earlier that William Hamann was with you for part of that day, am I correct?

A. That's correct.

Q. Was he with you when you went to the

subterranean level?

A. Yes.

Q. Who else was with you?

A. There were about 10 people.

Q. Do you remember their names?

A. Yes.

Q. Can you tell me their names please?

A. Donald Singh, Phil Hanna, Bob Labriola, Rick Collins, Joe Shearin, Dennis Hughes, Ed McCabe.

Q. Is that all you can remember?

A. Right now, yes.

Q. Prior to the time when you boarded the boat that you talked about, did you come in contact with the Fire Department of New York at all?

A. No.

Q. Did anyone from that group of people you were with in the subterranean level come into contact with the Fire Department of New York while you were with them?

A. No.

Q. And do you know if anyone in that group of people gathered on Liberty Street, I

think you said it was Liberty Street where your group was meeting, if any of those individuals came into contact with the Fire Department of New York?

MR. REYNOLDS: While he was with them?

A. While I was with them?

Q. While you were with them.

A. No.

Q. Do you have any knowledge about whether or not they came into contact with the fire department at any time during that day?

A. I don't know.

Q. Thank you for talking about that subject. I appreciate it.

I'd like to talk about the cleanup now. You had mentioned that you were involved to some extent with the cleanup, right?

A. Yes.

Q. When was the first time you returned to the site after September 11th?

A. I don't really know the date. It was shortly after the incident.

Q. Was it a matter of days or a matter

of weeks?

A. It was a matter of days.

Q. And why did you go the first time?

A. I was called to come back because of my knowledge of the river water system. They were having trouble with the PATH tunnels to New Jersey flooding, and it seemed to be a tidal thing.

They would pump and then they would lose ground, and then they would pump and they would lose ground. And it seemed like the tidal action of the Hudson River was filling up the basement. And they asked me to come back and locate the shutoff valves for the river water outfall lines which were out in West Street, so I did that.

Q. Who asked you?

A. The Port Authority engineering.

Q. Was there a particular individual you spoke with?

A. There were several. A gentleman named Bill Sullivan called me on behalf of Ray Finnegan to come back and help them to locate where those valves were. They were in manholes

under the street and they were completely covered with debris underneath the north pedestrian bridge.

So we pointed out where we thought they would be. And they brought loaders to move the debris out of the way. And we located the manholes and opened them up, pumped them out, and shut the valves. They were large valves, 60-inch valves, 66-inch valves, 36-inch valves.

Q. These were valves within the water supply?

A. These were valves from the river water outfall. As I had testified previously, we took water from the Hudson River from that pump station that we were at, circulated through the refrigeration machines, and then back out to the river through large lines.

Q. Was that pump station the only pump station that water came in through?

A. River water?

Q. River water.

A. Yes.

Q. So when you were called back to the site to deal with these valves, where were those

valves located?

MR. REYNOLDS: Objection, asked and answered.

A. They were in the street, in manholes on West Street.

Q. On West Street. How many were there?

A. We closed three.

Q. On that day?

A. Yes.

Q. Were there others that you were unable to close?

A. No. That was our mission. Those were the three valves that connected the subgrade areas with the river.

Q. How did you get to those valves?

MR. REYNOLDS: Objection, asked and answered.

A. We asked to have the big loaders that were there, the Cat 966, to push the debris out of the way.

Q. Did you do anything else at the site that day?

A. Yes. I directed some of the urban search and rescue teams that were going on.

There were some stairways that were intact into the subgrade and I was directing some of those search teams by radio.

Q. Did you yourself go into the subgrade area that day?

A. No. We were not allowed.

Q. Who did go down?

A. The urban search and rescue, FEMA people.

Q. In the course of those search and rescue missions, if you will, do you know if those individuals went to or -- went to the refrigeration plants that we've discussed today, either one of them?

A. They tried to on that day, but they were unsuccessful.

Q. Why?

A. Collapse, high water.

Q. Which stairwells were intact?

A. The stairwell that I directed them through was the J1 stair.

Q. Which was located where?

A. It was on Vesey Street and it went to the subgrade underneath World Trade 6.

Q. Can I direct your attention to Exhibit 34, page 194758. Are you able to locate that stairwell you just described on this drawing?

A. Yes. It's at the top left-hand corner there.

Q. Could you take that red pen in front of you and circle that, please?

A. (Witness complying.)

Q. And do you know if there were any other stairwells intact that day?

A. I know other areas that were accessible. I don't know of any other stairwells that were as intact. I know that people were going down the north and south projections. I know that people were going down the Barclay Street ramp.

Q. Anything else?

A. On that day, that was about it. It was very early in the process.

Q. Referring to J1, do you know how far people were able to get before they were blocked by debris or water?

A. On that day, I believe they got down

to the B5 level, but they were not able to go to B6 because of high water. And they fanned out in a south, southerly direction and an easterly direction until they ran into areas of collapse.

Q. Do you know how far they got before they ran into those areas of collapse in a southerly and easterly direction?

A. No, I don't, but when they came up, you know, we talked about landmarks down there and then they marked up drawings.

Q. What drawings did they mark up?

A. We had some base building drawings on-site at that time.

Q. And you were using those to indicate locations of where there was collapse and debris, is that correct?

A. Correct.

Q. And when you say we, who is we?

A. Myself and the USAR people, urban search and rescue, they refer to them as USAR. They are teams from all across the United States. I believe that the people I had were from Minnesota.

Q. What happened to those drawings, do

you know?

A. No.

Q. Did you keep copies of them?

A. No, they were not mine.

Q. Can you indicate -- is it possible for you to indicate on this same page these other three locations where you know people were able to access the area?

A. I can show two of them. Here's the north projection. Here's the south projection. But the Barclay Street ramp is not shown here. It's on a drawing from a higher level.

Q. Can I refer you to page 194759?

A. Correct. Yes, that's the Barclay Street ramp.

Q. Can you indicate that? Draw a circle and if you could draw a line to it and indicate Barclay Street ramp?

A. (Witness complying.)

Q. And initial that too, if you would.

A. (Witness complying.)

Q. Do you know if any of the teams in the underground area that day were able to gain access to or see the refrigeration plant?

MR. REYNOLDS: Objection, asked and answered.

A. Not on that day.

Q. What about the emergency generators, were you able to get access to those?

A. I don't know, but I don't think so because of the high water. The emergency generators were on B6.

Q. They were not functioning the day you were there, correct?

A. Nothing was functioning that day.

Q. When was the next time you went to the site?

A. I don't know, but I went intermittently from time to time, as requested.

Q. Between September 11th, 2001 and today, can you estimate how many times you've been at the site?

A. Well, I work at the site now, so I'm there every day.

Q. Let me take you back to the time. When did you start working at the site again?

A. I believe it was probably -- I'm not sure of the date, but it was late July, maybe

the 22nd.

Q. Between September 11th and that approximate date, about how many times did you go to the site?

A. About 10.

Q. Can you describe for me what you did during those visits?

A. Usually the same procedure, to go to help out and identify areas that, you know, people were looking for utility connections in the street, sewer connections, the stuff we talked about, steam, water. So they were trying to locate those things.

And to try to help people reach the refrigeration plants because there was a great concern about the amount of freon that was down in the vessels with all the people working on the site.

Q. And you were asked to perform these tasks over time, not all on the same day, correct?

A. Correct.

Q. At what point did you first, you yourself, first go to the underground area?

A. I don't remember.

Q. Can you estimate the date?

A. I don't remember.

Q. Do you know at what point anyone first gained access to the refrigeration plant?

A. I know when it was, but I can't tell you. I don't know. I told you I'm very bad with dates and time frames.

Q. I understand.

A. But I was in constant contact with the people working there, and you know, we got there.

Q. Was it a matter of weeks or a matter of months?

A. I think it was a matter of months.

Q. When -- are you aware of the amount of damage that was done to the refrigeration plant based on information you received from individuals who gained access to those refrigeration plants?

MR. REYNOLDS: Objection. Calls for speculation, hearsay. You can answer.

A. I have heard some stories about what condition it was in.

Q. Can you tell me what you know about what condition it was in?

A. I could give you a little story. Some people I know got down to the level one refrigeration machine. And when they climbed down to it, they said it looked like it was in perfect condition. All that they could see, it looked like it was standing there; yes, of course it was covered with debris, but it looked like it was intact.

And then later on they found out that it in fact had a giant steel beam driven right through the vessels. They thought, you know, wow, here's a machine that the freon is probably intact. And then later on when they were able to access it from a different direction, they found out that there was a beam driven right through it. So things were not always as they appeared from the limited view you could get.

Q. You said some people you know saw that?

A. Yes.

Q. Who was that?

A. Peter Rinaldi.

Q. Anyone else?

A. He was the one that I talked to about it.

Q. Were you able to determine, Port Authority or any other entities working at the site, able to determine whether there was still freon at the chiller plants?

A. Yes.

MR. REYNOLDS: Object to the form.

Q. And what were they able to determine about that?

A. As they uncovered more and more of it, they were able to get people down. And I know the people from York International that we had worked with, they were the contractor, they were the producers and suppliers of the machinery, they were the people that repaired it in 1993.

And I had talked to some of those people. They were on the site continuously until all the freon was removed. So they kept me updated.

Q. How long did it take to do that?

A. Months.

Q. You've described the damage you're aware of to chiller unit number one, I believe?

A. Yes.

Q. Was there damage to the other six units?

A. Oh, yes.

Q. Can you describe that?

A. That's the only one that I have a vivid recollection of a good anecdotal story. All the rest, I don't have anything to tell you.

Q. Do you know if any of the equipment in the refrigeration room was able to be salvaged for reuse?

A. It was all cut up and thrown away.

Q. Do you have any information about the amount of damage that was caused to the emergency generators?

A. I was in the emergency generator plant and it was remarkably intact. The slab above it did not collapse. The collapse zone was right outside of it. And we were able to walk around in there and all the machinery was -- it looked like it was in running order.

Q. Was it functioning?

A. Oh, no.

Q. Why not?

MR. REYNOLDS: If you know.

Q. If you know.

A. The buildings fell down. Everything collapsed, you know, everything was done.

Q. Was there any source of power for the emergency generators?

A. The emergency generators were the source of power.

Q. Is it your testimony that you could turn them on and if there was something to supply, they would actually work?

A. That's not my testimony. I don't know. All I said was they looked remarkably intact; they looked as if they could run. I mean they weren't buried in concrete and there were no steel beams across them. I was able to walk around.

Q. Were those units salvaged and reused?

MR. REYNOLDS: Objection, only if you know.

A. I don't know.

Q. You don't know if they could have

worked or not, though, is that correct?

A. In my opinion, when I looked at them, yes, I think they could have. Just my opinion.

Q. At what point -- you talked about the water that was in the B6 level. Do you know what the source of that water was?

A. It was all the broken piping for the buildings, domestic water, sanitary waste, fire systems, river water, plus the fire department was pouring thousands of gallons on the fire for an extended period of time. And then we assumed that the river was backflowing into the subgrade until we shut those valves.

Q. And those fires that you mentioned, those fires went on for months, didn't they?

A. Yes.

Q. At what point was the water supplied from the B6 level, do you know?

A. I don't know.

Q. Do you know what measures had to be taken in order to ensure that the water supply didn't fade out?

MR. REYNOLDS: Object to the form and object to lack of foundation.

A. I know pieces of it. I don't know the whole picture.

Q. Can you tell me what you know?

A. I know that we shut those large pipes and it seemed to make a difference. And I know that they had plugged the PATH tunnels running to New Jersey with concrete to make sure that it didn't flow back into Jersey City.

And they were pumping constantly on the New Jersey side because the PATH tunnels were at the lowest level of the subgrade. And they just pumped and pumped until they got it all down. When they stopped pouring water on the fire, they were able to gain enough ground to pump it out.

Q. Were you involved with -- strike that.

There were Port Authority employees at the clean-up site daily, were there not?

A. Yes.

MR. REYNOLDS: Objection, lack of foundation.

Q. And one of those people was Peter Rinaldi, correct?

A. Yes.

Q. And Peter Rinaldi's responsibility was to assist in the clean-up in whatever manner was necessary on behalf of the Port Authority, is that right?

MR. REYNOLDS: Object to the characterization of his responsibilities. If you know.

A. I don't know.

Q. Your involvement in the clean-up was much less than Peter Rinaldi's, is that correct?

A. Yes.

Q. When you were at the clean-up site, to whom did you report?

A. Different people at different times. I met with Peter Rinaldi. I met with Carl Passeri. I met with Ray Finnegan. I met with Tom O'Connor. I met with Ed McGinley. So these were different people, I met with Bill Sullivan, that had requested my assistance from time to time.

Q. Are these all Port Authority employees?

A. Yes.

Q. Did you ever coordinate with anyone outside of the Port Authority in connection with your activities at the clean-up site?

A. The urban search and rescue people.

Q. Anyone else?

A. Some of the FEMA people.

Q. Anyone else?

A. Some of the DDC people.

Q. Anyone else?

A. That would be it.

Q. Are you aware that the DDC was attempting to map the debris at the World Trade Center site?

A. Yes.

Q. And by DDC, I understand that to mean the Department of Design and Construction, is that correct?

A. That's correct.

Q. Were you involved in the efforts to map the debris at the World Trade Center site at all?

A. As I had described earlier, with the urban search and rescue people, when they went down, when they came back up, we would take a

map and talk about how far they got.

And as it developed, I would see, you know, it would get better and better. They would have an area that was pink that would say, total collapse. And yellow would be partial collapse. And blue would be extremely unstable.

So every time that I went back there, that body of knowledge grew as they were able to get deeper and deeper into the subgrade areas.

Q. So you were able to look at that information, but were you involved in creating those maps or gathering the information to create the maps?

A. I helped with that from time to time.

Q. How did you help?

A. By talking to the urban search and rescue people by radio as they went around the subgrade areas, because I knew -- you know, they would radio back and say we're at a rollup door, we just went about 50 feet east, we're at a rollup door, where are we?

And I'd say, if you go through that rollup door, if you can get around that rollup door and if you're heading north, you know, 50

feet, follow that corridor and turn left, you should be headed towards the refrigeration plant.

Q. Do I understand your earlier testimony to be that you did not keep any documentation in connection with that effort, you, yourself?

A. No, I never had any.

Q. That was information you saw when you went to the site, but not information you had in your possession?

A. Correct.

Q. Do you know whether anyone at the World Trade Center site was attempting to determine which piece of debris came from which tower?

A. I read that in the newspapers, yes.

Q. Do you have any other information about it besides that?

A. No.

Q. You didn't ever see anyone doing that personally?

A. No.

(Discussion off the record.)

Q. Was your radio functioning on September 11th, 2001?

A. Yes.

Q. In connection -- did it function after the collapse of World Trade Center 2?

A. Yes.

Q. Did it function all day?

A. Yes.

Q. In connection with your work at the clean-up site, did you need to access the sectionalizing valves that we've discussed today?

A. No.

MS. GIFFIN: Just one more document to show you, which is PORT/SRI 165375 to 165376.

(Malopolski Exhibit 53, document bearing Bates Nos. PORT/SRI 165375 and 165376, marked for identification, as of this date.)

Q. I don't intend to ask you very detailed questions about this document. You should feel free to review it, but I don't think you need to review it in detail.

A. Okay.

Q. Have you seen this document before, sir?

A. No.

Q. This is an email exchange that went on in the course of early June 2001, according to this document.

I want to draw your attention to the fourth sentence in that first email paragraph, which says, "Remember Ensec relocated the equipment to the new OCC several years ago and is responsible for maintaining the equipment." Do you see that?

A. Yes.

Q. Do you know who Ensec is?

A. No.

Q. Have you ever heard of them?

A. By reading the email, I've learned that Ensec is the, it seems anyway --

MR. REYNOLDS: Don't speculate.

Q. Yes. All I actually need to know is do you have any independent knowledge about Ensec outside of what you just read?

A. No. All my knowledge about Ensec is

contained in this paper, and I can infer what it is, but --

Q. Have you heard of an individual named Angus Kress Gillespie?

A. Yes.

Q. You're aware that he wrote a book on the Twin Towers?

A. Yes.

Q. Did you talk to him while he was in the process of researching that book?

A. No.

Q. Did you read that book?

A. No.

MS. GIFFIN: Mr. Malopolski, that's all the questions that I have for you. Let me again reiterate that we are very sorry for your loss and experiences at the World Trade Center, and we thank you very much for your time.

MR. REYNOLDS: No other questions?

(Continued on the next page.)

THE VIDEOGRAPHER: We're now going off the record. The time is 3:58 p.m. This is the end of the tape labeled number 3 of Volume II, concluding the videotaped deposition of Mr. Dennis Malopolski.

(Time noted: 4:00 p.m.)

_____

DENNIS MALOPOLSKI

Subscribed and sworn to before me this ___ day of _____, 2002.

_____

C E R T I F I C A T E

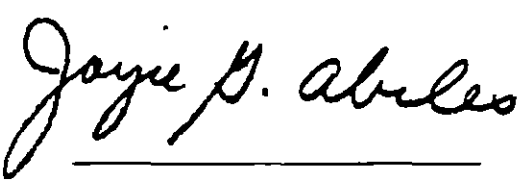
STATE OF NEW YORK )
: ss.
COUNTY OF NEW YORK )

I, JOYCE G. ABELES, a Notary Public within and for the State of New York, do hereby certify:

That DENNIS MALOPOLSKI, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of October, 2002.



JOYCE G. ABELES

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----------EXHIBITS----------

MALOPOLSKI EXHIBITS FOR ID.

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Malopolski Exhibit 35, document bearing Bates Nos. EXP 009808 through 010067, marked for identification..... 160:11

Malopolski Exhibit 36, document bearing Bates Nos. PORT/SRI 208699 through 208805, marked for identification..... 167:9

Malopolski Exhibit 37, document bearing Bates No. PORT/SRI 203758, marked for identification ..... 172:17

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Malopolski Exhibit 44, document bearing Bates No. PORT/SRI 141147, marked for identification ..... 191:22

Malopolski Exhibit 45, document bearing Bates No. PORT/SRI 141148, marked for identification ..... 194:8

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Malopolski Exhibit 52, document bearing Bates Nos. GMAC 002-07724 through 07730, marked for identification..... 339:15
Malopolski Exhibit 53, document bearing Bates Nos. PORT/SRI 165375 and 165376, marked for identification..... 395:18

*** ERRATA SHEET ***

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DATE OF DEPOSITION: October 18, 2002
NAME OF WITNESS: DENNIS MALOPOLSKI

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DENNIS MALOPOLSKI

Subscribed and sworn to before me
this ____ day of _____, 2002.

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